Urban Flood Risk Reduction Program Guidelines

Authorized Under

The Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E)

State of California
Department of Water Resources
Division of Flood Management

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1. INTRODUCTION

1.1 Urban Flood Risk Reduction Program

The Urban Flood Risk Reduction (UFRR) Program was created as a result of the adoption of the Central Valley Flood Protection Plan (CVFPP) to address Department of Water Resources (State) investment priorities for urban areas. The UFRR Program supports implementation of regional flood damage reduction projects for Urban Areas protected by State Plan of Flood Control (SPFC) facilities in the Sacramento-San Joaquin Valley to achieve, at least, an urban level of flood protection (defined as protection from a 200-year flood). The UFRR Program will assist Urban Local Agencies to plan, design, and construct flood risk reduction projects. The projects must rehabilitate, reconstruct, replace, or improve SPFC facilities in ways that improve flood protection. Projects may include feasibility studies, design projects, or construction projects.

Supplemental documents will be available to assist the applicants to prepare their applications. These documents include:

- Proposal Solicitation Package (PSP);
- Guidelines for Development of State Led Feasibility;
- Cost Share Guidelines to provide detailed information about how projects will be cost shared with the State and local agencies;
- Handbook for Assessing Value of State Flood Management Investments to provide guidance for conducting economic analyses on projects; and
- Conservation Framework and as subsequently updated (or amended).

The State investment priorities for flood management in the Sacramento-San Joaquin Valley promote implementation of multi-benefit flood management programs and projects that improve public safety, foster environmental stewardship, and support economic sustainability in ways that are consistent with Integrated Water Management principles. State-preferred projects will help improve long-term performance of the flood management system, including making the system more resilient in the face of stressors, such as the potential for larger storms and flood flows in the future due to climate change.

Under the UFRR Program, State investments must be consistent with the CVFPP State Systemwide Investment Approach (SSIA) (Section 5.1) and be shown to be feasible. To be consistent with SSIA, projects must incorporate CVFPP principles and contribute to Integrated Flood Management Basin

objectives, which target flood safety, environmental stewardship, and economic sustainability. Investments will only be made for projects that reduce flood risks in Urban Areas protected by SPFC facilities. In addition, funded projects should address one or more regional priorities consistent with a Regional Flood Management Plan and make a contribution toward the following:

- Supporting a systemwide approach to flood management that helps improve flood system resiliency and sustainability;
- Improving flood risk management (achieving the SPFC design flow criteria or greater, protecting life safety in high-risk communities, and providing a reduction in economic damages);
- Improving operations and maintenance (O&M) and emergency response;
- Promoting ecosystem functions;
- Providing multiple benefits including: contributing to a robust and sustainable ecosystem, improving water quality, enhancing groundwater recharge, or integration with other water management activities; and
- Improving institutional support.

The State will prioritize funding for multi-benefit projects that provide significant contribution toward public safety, environmental stewardship, and economic sustainability. These benefits are described in more detail in Section 5.1 of these Guidelines. Applicants are encouraged to carefully review these criteria and integrate them into their project formulation.

1.2 Funding Authority

The passage of the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E) authorized the State to make funds available to the Local Agencies for, among other things, flood protection work. Proposition 1E requires that the funds be expended while (1) securing the maximum feasible amounts of federal and local matching funds in order to ensure prudent and cost-effective use of the funds to the extent that doing so does not prohibit timely implementation of disaster preparedness and flood prevention projects; (2) prioritizing selection and project design to achieve maximum public benefits from the use of the funds; and (3) supporting an investment strategy that meets long-term flood protection needs and minimizes California taxpayer liabilities from flooding.

The bond funds to be used for the UFRR Program were authorized by the following portion of Proposition 1E, which added Section 5096.821 to the Public Resources Code, as follows:

> 5096.821. Three billion dollars ($3,000,000,000) shall be available, upon appropriation to the State for the following purposes:
>
> (a) The evaluation, repair, rehabilitation, reconstruction or replacement of levees, weirs, bypasses and SPFC facilities by all of the following actions:
>
> (1) Repairing erosion sites and removing sediment from channels or bypasses.
>
> (2) Evaluating and repairing levees and any other SPFC facilities.
>
> (3) Implementing mitigation measures for a project undertaken pursuant to this subdivision. The State may fund participation in a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code to facilitate projects authorized by this subdivision.
>
> (b) Improving or adding SPFC facilities to increase levels of flood prevention for Urban Areas, including all related costs for mitigation and infrastructure relocation. Funds made available by this subdivision may be expended for State financial participation in federal and State authorized flood control projects, feasibility studies and design of federal flood damage reduction and related projects, and reservoir reoperation and groundwater flood storage projects. Not more than $200 million may be expended on a single project, excluding authorized flood control improvements to Folsom Dam.

2. DEFINITIONS AND ABBREVIATIONS

"Agreement" or "Funding Agreement": An agreement entered into by a successful Applicant and the State to provide funds for a Project.

"Applicant" or "Local Agency": A public agency in the State of California, duly organized, existing, and acting pursuant to the laws thereof, including, but not limited to, any county, city, city and county, district, or joint powers agency. For purposes of these UFRR Guidelines, a Local Agency must have authority to implement flood-management projects.

"Approval Letter": A letter issued by the State to a Funding Recipient approving the transition into construction work (from design work) after the Funding Recipient has documented completion of the California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA) process.

"Basin": A separable hydraulic area protected by a system of flood-management infrastructure.

"Basin Plan": An overall plan for improving flood management within a Basin; one that may include multiple individual Projects within the Basin. It is required as part of the project proposal and needs to be approved by the State.

"Central Valley Flood Protection Plan (CVFPP)": A critical document adopted July 2012 by the Central Valley Flood Protection Board to guide California's participation (and to influence federal and local participation) in managing flood risk along the Sacramento River and San Joaquin River systems. The CVFPP proposes a state systemwide investment approach for sustainable, integrated flood management in areas currently protected by SPFC facilities, and will be updated every 5 years.

"Construction Funding Agreement": A Funding Agreement that authorizes a construction Project; assuming all environmental documents are in-place.

"Contractor(s)": The Contractor(s) performing the Project work for the Funding Recipient.

“Credit”: Local expenditures toward Eligible Project Costs incurred before the execution of a Funding Agreement and after the passage of Proposition 1E that are recognized by the State as part of the project’s local cost share.

“Delta”: The Sacramento–San Joaquin Delta area as defined in California Water Code Section12220.

“Design-Construction Funding Agreement”: A Funding Agreement that authorizes a Design Project and construction, but requires an Approval Letter before the construction portion of the agreement can take effect.

“Design Level of Performance”: The authorized design water surface profile and levee crown elevation. For most SPFC facilities, this is the 1955 or 1957 design water surface profile, plus 3 feet or more freeboard, as designed and constructed by the U.S. Army Corps of Engineers (USACE). The Design Level of Performance acceptable to the State is the level which has been adopted by the State legislature or the Central Valley Flood Protection Board (CVFPB) acting pursuant to its authorities in the water code, and for which the State has offered assurances to the federal government. If improvements have been made to the Design Level of Performance that have not been adopted by the State (i.e., assurances have not been provided to the federal government), they are not considered part of the Design Level of Performance for purposes of program funding.

“Design Project”: A Project that only involves final design work without any actual construction. This type of Project does not include work associated with preliminary studies to choose the preferred alternative, except as associated with preparing documents for CEQA and, if applicable, NEPA. An award of a Design Funding Agreement does not guarantee construction funding.

“Directed Action”: Projects that the Department of Water Resources (DWR) independently selects.

“Early Implementation Program”: The predesessor of UFRR administered by the State that provided funds to local agencies for flood risk reduction prior to the adoption of CVFPP.

“Eligible Project Costs”: The reasonable and necessary actual costs associated with either a Feasibility Study, Design Project, Repair Project, or an Improvement Project as further described in these UFRR Guidelines. Such costs only include work that is necessary for the evaluation, repair, rehabilitation, reconstruction, or replacement of levees, weirs, bypasses, and SPFC facilities, including required real estate, environmental establishment costs, and reservoir reoperation projects that benefit Urban Areas downstream.

“Facilities of the State Plan of Flood Control”: The levees, weirs, channels, and other features of the federal- and State-authorized flood-control facilities in the Sacramento and San Joaquin River drainage basins for which CVFPB or the State has given the assurances of non-federal cooperation to the United States required for the project, and those facilities identified in Section 8361 of the Water Code. See California Public Resources Code Section 5096.805(e).

“Feasibility Study”: An evaluation and analysis of the potential of a proposed Project that is based on a sufficient level of investigation, including alternatives analyses, and research to support the process of decision-making toward the preferred alternative including environmental review.

“Funding Agreement” or “Agreement”: An Agreement entered into by a successful Applicant and the State to provide funds for the Project.

“Funding Recipient”: A Local Agency in the State of California duly organized, existing, and acting pursuant to the laws thereof, and its successors and assigns. The Funding Recipient is signatory to the Funding Agreement and has the authority to implement flood management projects.

“Improvement Project”: A Project, or portion of a Project, that will improve or add SPFC facilities to increase levels of flood protection for Urban Areas. Funding for Improvement Projects is authorized by California Public Resources Code Section 5096.821(b). Examples of Improvement Projects include, but are not limited to, a levee raise, re-alignment, setback, or ring levees, or other flood system structural improvements, if the Project includes an increase in the level of protection over that in the original design. Each Improvement Project is limited to a $200 million contribution from California Public Resources Code Section 5096.821 funds.

“Independent Review”: A review conducted of design and construction activities before the initiation of physical construction, and periodically thereafter, on a regular schedule to inform the State and the Funding Recipient about the adequacy, appropriateness, and acceptability of the design and construction activities for the purpose of ensuring public health, safety, and welfare until Project construction activities are completed.

“Integrated Flood Management Objectives”: Objectives that are described in California Water Code Section 9616 (Central Valley Flood Protection Act of 2008) that are consistent with the State Systemwide Investment Approach. These objectives focus on improving both flood safety and environmental stewardship. DWR has refined these objectives in the CVFPP planning process to be more specific and measurable.

“Integrated Water Management”: DWR’s strategic approach, as stated in “Water 360, A Commitment to Action” dated April 2013, to planning and implementing water management programs that combines flood management, environmental stewardship, and water supply actions to deliver multiple, and social benefits across watershed and jurisdictional boundaries.

“Level of Protection”: Relates to the probability of flooding in any one year. It is expressed as a 1 in x annual chance of flooding (e.g., a 1 in 50 annual chance of flooding is a 50-year Level of Protection) and is measured in accordance with the Urban Levee Design Criteria (ULDC) in Urban Areas (the current urban criteria are currently available at http://www.water.ca.gov/floodsafe). This term is different than “Design Level of Performance”, which deals with the performance level of the facility at issue based on the original intended design when the levee or other facility was constructed.

“Limit on State Funds”: The maximum amount of State funds that will be expended on the Project, as set forth in the Funding Agreement.

“Local Agency” or “Applicant”: A public agency in the state of California, duly organized, existing and acting pursuant to the laws thereof, including, but not limited to, any county, city, city and county, district, or joint powers agency. For

purposes of these UFRR Guidelines, a Local Agency must have authority to implement flood-management projects.

“Multiple-benefit Project”: A Multiple-benefit Project is one that is designed and implemented to achieve integrated flood management objectives related to flood safety, environmental stewardship, and economic sustainability, while providing additional benefits to the extent feasible.

“Natural Community Conservation Plan”: A plan prepared pursuant to the California Fish and Game Code that provides for measures necessary to conserve and manage natural biological diversity, while allowing compatible economic development, growth, and other human uses.

“NEPA”: The National Environmental Policy Act of 1969, 42 U.S.C. sections 4321–4347.

“O&M”: Operations and Maintenance including routine maintenance.

“OMRR&R”: Operation, Maintenance, Repair, Replacement, and Rehabilitation of the Project.

“Overall Work Plan”: The plan described in the Funding Agreement that sets forth the work to be done to complete the Project.

“Project”: A Project for work to be funded under these UFRR Guidelines. A Project is defined as distinct work that is separately identifiable and physically separable from other work in the Basin that on its own, or as part of other work, will repair, restore, replace, or improve the performance of a facility, SPFC facilities, or adjacent non-SPFC facilities. A Project may be a Feasibility Study, Design, construction Project, or a combination of types.

“Project Element” or “Element”: A discrete portion of the Project identified in the Overall Work Plan.

“Project Feature” or “Feature”: A discrete portion of a Project Element identified in the Overall Work Plan.

“Project Levees”: The levees that are part of the SPFC facilities.

“Project Real Estate Plan”: A plan for acquisition of interests in real estate needed to complete the Project. The Project Real Estate Plan must be reviewed and approved by the State before any disbursement of State cost share funds for any real estate capital costs. The Real Estate Plan must include Real Estate Strip Maps and may require updates or amendments.

“Quarterly Report”: A report offered on a quarterly basis that provides an update on the past, present, and future work planned on the Project.

“Real Estate Capital Costs”: Reasonably justified costs for real property interests (fee/easement), utility relocations, damage expenses (structures, wells, fences, and irrigation systems), goodwill, and relocation assistance programs. “Real Estate Strip Map”; A map of each property acquisition that shows the intended future land use after completion of the Project. Real Estate Strip Maps must be included as part of the Project Real Estate Plan.

“Real Estate Support Costs”: Reasonably justified costs for acquisition services, appraisal services, geodetic and cadastral services, environmental site assessment services, attorney services fees, engineering services fees, court costs, title and closing costs, and public utility relocations (i.e., utilities serving multiple parties).

“Relocation Assistance Costs”: The reasonable, necessary, and justified costs from that portion of the Real Estate Capital Costs attributable to financial assistance for relocation as identified in the Project Real Estate Plan and the Relocation Assistance Plan.

“Relocation Assistance Plan”: A plan that specifies all required acquisition and relocation assistance activities, responsibilities, and financial assistance required and authorized in accordance with federal and State statutes and regulations, including California Government Code sections 7260 et seq.; California Relocation Assistance and Real Property Acquisition Guidelines, 25 Califonria Code of Regulations sections 6000 et seq.; 23 California Code of Regulations sections 370 et seq.; and the Uniform Relocation Assistance and

Real Property Acquisition Policies Act (regulations at Title 49 Code of Federal Regulations [C.F.R.] Part 24).

"Repair Project": A Project or portion of a Project only qualifies as a repair if it restores the design level of the flood-management facility to a capacity lower than or equal to the Design Level of Performance. If a Project results in the facility having a higher design level than the Design Level of Performance, it is an improvement, not a repair. The cost of repairs included in a Project is not counted against the $200 million limit.

"Residual Risk": The portion of the flood risk that still exists with the flood damage reduction project implemented. Residual risk occurs because flood events may exceed project design levels or projects features fail. Residual risk can be exacerbated if a Project increases flood protection levels and thereby induces growth in flood-prone areas.

"Ring Levee": A levee (and the associated real estate) that by itself or by connecting to existing levees will encircle a particular asset or set of assets and provide them protection from flood risk.

"Routine Maintenance": Any work required to retain or maintain the intended functions of flood protection facilities, related environmental mitigation, and existing encroachments. Maintenance activities include, but are not limited to, mowing, tree and brush trimming and removal, revetment restoration, rodent management, spraying, painting, coating, patching, burning, and similar works, but do not include any significant excavation or any excavation during flood season, which is defined as November 1 to April 15.

"Section 408": The formal review of a Project related to a SPFC facility by USACE associated with work under 33 U.S.C. Section 408. Major and minor reviews have different levels of delegation and varying requirements for submittals.

"Section 221 Memorandum of Understanding": Refers to Section 221 of the Flood Control Act of 1970, as amended. Section 221 is a comprehensive authority applicable to federal authorized water resources development projects that provides for the affording of credit for non-federal sponsor planning, design,

and construction work, if the work is determined to be integral to a federal Project. These UFRR Guidelines require the Funding Recipient to enter into Section 221's Memorandum of Understanding, unless a waiver is granted.

"Setback Levee": A new levee (and the associated real estate) constructed completely separate (except for the "tie-ins") from an existing levee (or flood control feature) that allows for the removal of the existing levee and creation of additional floodplain connected to the stream. A Setback Levee may not necessarily result in the removal of the existing levee if the State determines that habitat restoration or preservation will be better achieved with the existing levee left in place, or if there are other factors that make opening up the setback area to flow undesirable.

"State": The State of California, acting by and through the Department of Water Resources.

"State Plan of Flood Control": The State and federal flood-management works, lands, programs, plans, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350 of the California Water Code, and of flood-management projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of the Water Code, for which CVFPB or DWR has provided the assurances of non-federal cooperation to the United States, which shall be updated by the State and compiled into a single document entitled "The State Plan of Flood Control." See California Public Resources Code Section 5096.805(j).

"State Systemwide Investment Approach" or "SSIA": As described in the 2012 CVFPP, this approach consists of a broad range of physical and institutional flood damage reduction actions to improve public safety and achieve economic, environmental, and social sustainability.

"Statement of Costs": A Statement of incurred Eligible Project Costs.

"Total Project Cost": The portion of the project cost that is to be shared between the State and the Local Agency. The costs contributed by other entities or programs are not included in the Total Project Cost.

“Urban Levee Design Criteria” or “ULDC”: The levee and floodwall design criteria developed by the State for providing the Urban Level of Flood Protection. (California Government Code Section 65007(n) and California Water Code Section 9602(h).

“Urban Area”: A developed area in which there are 10,000 residents or more (California Government Code Section 65007(l)).

“Urban Level of Flood Protection”: The level of protection that is necessary to withstand flooding that has a 1 in 200 chance of occurring in any given year using criteria consistent with, or developed by, DWR (California Government Code Section 65007[n] and California Water Code Section 9602[i]).

ABBREVIATIONS

AB	Assembly Bill
APN	Assessor Parcel Numbers
Binder	Real Estate Exhibit Binder
C.F.R.	Code of Federal Regulations
CEQA	California Environmental Quality Act
CGFM	Certified Government Financial Manager
CPA	Certified Public Accountant
CVFPB	Central Valley Flood Protection Board
CVFPP	Central Valley Flood Protection Plan
DWR	Department of Water Resources
EIP	Early Implementation Program
FAP	Final Accounting Package
FDR	Flood-Damage Reduction
FEMA	Federal Emergency Management Agency
Matrix	Property Owner Tract Register
MOS	Memorandums of Settlement
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
O&M	Operations and Maintenance
OMB	Office of Management and Budget
OMRR&R	Operation, Maintenance, Repair, Replacement, and Rehabilitation
PSP	Proposal Solicitation Package
SB5	Senate Bill 5

ABBREVIATIONS

SCRB	Separable Costs and Remaining Benefits
SPFC	State Plan of Flood Control
SRFCP	Sacramento River Flood Control Project
SSIA	State Systemwide Investment Approach
SSJDD	Sacramento San Joaquin Drainage District
State	California Department of Water Resources
UFRR	Urban Flood Risk Reduction
ULDC	Urban Levee Design Criteria
ULOP	Urban Level of Flood Protection
USACE	U.S. Army Corps of Engineers

3. GENERAL REQUIREMENTS

These UFRR Guidelines govern the process by which UFRR Program projects will be administered. The process by which a Local Agency prepares and submits an application for a Project and the process by which the State reviews and selects Projects to fund from that pool of applications is covered in a separate PSP document. The information collected will be evaluated based on the Project's consistency with SSIA and State priorities, along with the extent to which the Project meets the program criteria. Where a Project, receiving UFRR Program funds, is governed by specific laws, these UFRR Guidelines apply to the extent they are not inconsistent with those specific laws. These UFRR Guidelines may be amended as provided herein and may be changed in subsequent fiscal years.

Local Agencies interested in participating in the UFRR Program are encouraged to discuss their project formulation with the State at their earliest convenience. The State intends to use these UFRR Guidelines to select projects to be funded under the UFRR Program on a competitive basis, for Capital Outlay funds allocated by the legislature for projects, as directed actions, or to provide supplemental funding to complete the Project's scope of work for existing EIP projects or federal projects, at the State's discretion.

3.1 Who May Apply

An Applicant must be a Local Agency with the authority to implement flood projects within the areas protected by the SPFC facilities. The Applicant must propose a project for a Local Agency–led feasibility study, design, or construction work to implement flood-risk reduction Projects that rehabilitate, reconstruct, replace, improve, or add to the SPFC facilities within urban areas.

3.2 Application and Selection Process

The application and selection process is covered in the PSP. The PSP also sets forth the dates of important milestones in the Project application and selection process.

Applicants may submit proposals for one or more Repair or Improvement Projects that are consistent with Basin Plan and Project cost limits. The Project spending limit is $200 million for Improvement Projects. However, Repair Projects do not have such a limit.

Applicants are encouraged to seek other sources of State and federal funding. If an applicant secures an alternative funding source for an element(s) of the Project, then the applicant will need to provide the State with a justification demonstrating the continued need for UFRR funding to complete those project element(s). No Applicant may use UFRR Program funds or other State funds for its local share unless the State agency providing those funds is specifically authorized by the Legislature to allow the Local Agency to use the funds for its local share. The State agency must verify and give the Applicant its written permission to use the State agency–provided funds for the Applicant's UFRR Program Project local share. This application and selection process notwithstanding, the State reserves the right to implement Projects with merit in a manner acceptable to the State. If, for example, a Funding Recipient were to propose a full Project in the initial UFRR Program cycle, the State retains the right to fund only one Element of that Project such as a feasibility study, design, or construction in any given UFRR Program year, with no guarantee of future funding.

3.3 Funding Agreement

Once a Project is selected, the State will execute a Funding Agreement with the Local Agency. This Agreement is subject to the approval of the Department of General Services. The Agreement is a contract between the Local Agency and the State covering the terms by which the Local Agency shall work to fund, manage, and complete the Project. After execution of a Funding Agreement, the Local Agency is referred to as the Funding Recipient. The contract terms for Feasibility Studies will be less comprehensive than for other types of projects. The contract terms for Design and Construction Projects include, among other things, a discussion of the Project schedule and cost, cost sharing percentages, a limit on the use of State funds, Funding Recipient responsibility for completing and maintaining the Project, the method by which Funding Recipient receives Project funds from the State, a delineation of reporting requirements, real estate standards of land acquisition, and a process through which the Funding Recipient completes an assessment of performance and the State verifies that performance. Funding Recipient obligations can also be found in Appendix B.

The Funding Agreement must include an Overall Work Plan, which describes the work to be performed, a detailed budget, a detailed schedule, and reporting

requirements. The State may make changes to its Funding Agreement as a result of amendments to the UFRR Guidelines. A sample Funding Agreement will be posted on the FloodSAFE website.

All Project participants are subject to State and federal conflict-of-interest laws. Failure to comply with these laws, including the business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Accordingly, before submitting an application, Applicants and Local Agencies are urged to seek legal counsel regarding potential conflict-of-interest concerns and requirements for disclosure. Applicable statutes include, but are not limited to, California Government Code Section 1090 and Public Contract Code sections 10410 and 10411 for State conflict-of-interest requirements.

As part of the conflict-of-interest requirements, the State may require individuals working on behalf of a Funding Recipient to file a Statement of Economic Interests (Fair Political Practices Commission Form 700) if it is determined that an individual is a consultant for purposes of the Political Reform Act.

Applicants should note that by submitting an application, they will waive their rights to the confidentiality of that application. The State, however, will endeavor to keep all applications confidential until the Project's selection. After the Projects are selected, all applications will become public documents.

3.4 Changes to the Overall Work Plan After Funding Agreement Is Signed

After a Funding Agreement is executed, the State may consider approving or requiring changes to the Overall Work Plan due to circumstances that were not reasonably foreseeable at the time the Funding Agreement was executed. The State may allow non-material changes to be made to the Overall Work Plan without formally amending the Funding Agreement. Any material changes made to the Overall Work Plan will require a Funding Agreement Amendment. In particular:

- The State may approve or require changes to the design plans in the Overall Work Plan if the State determines that the changes will improve the Project design. Any such changes must also be concurred with by the Funding Recipient. Changes to the design plans will not be considered material

unless they result in a material change to the budget or schedule, or include substantial work not previously identified in the Agreement.

- The State may approve or require changes to the portions of the Overall Work Plan that concern the Project budget. Changes to the budget may not be considered material unless the change would require an amendment to the Funding Agreement to increase or decrease the State funding commitment.
- The State may approve or require changes to the portion of the Overall Work Plan that sets forth the Project schedule. Changes to the schedule will not be considered material unless they extend the term of the Funding Agreement.

If the Funding Recipient and the State agree to a material change with respect to the Overall Work Plan that decreases the Project cost, there shall be proportionate reduction in the limit on State funds. The Funding Recipient shall also promptly notify the State if it proposes to make a change to the Project-associated work described in the Overall Work Plan that will cause a material change to cost, cost sharing, effectiveness, or schedule of the work that is being funded under the Funding Agreement.

3.5 Requirements for Disbursement of Construction Funds

To receive disbursements of construction funds under the Funding Agreement, the Funding Recipient must meet certain other requirements, specifically:
Section 221's Memorandum of Understanding (MOU) with USACE: The Funding Recipient must secure a Section 221 MOU for federal credit with USACE. The State may, at its sole discretion, waive this requirement.

- Draft Amendment to the O&M Manual: The Funding Recipient must provide a draft copy of the amendment to the O&M Manual which outlines the maintenance needed post-project, who will maintain, and the funding mechanism for the maintenance. This draft shall be submitted to the appropriate Levee Maintaining Agency and the State for review and written approval.
- Design Approval: The State must approve the Funding Recipient's 100% design plans in writing (including resolution of all outstanding comments from earlier design phases). The State may waive this requirement for work required to complete necessary relocations, such as utility poles, roadways, and other flood risk reduction design elements, or where a particular reach has been designed and permitted even though other reaches have not.

- Environmental Documents: The Funding Recipient will be required to demonstrate compliance with (1) all applicable requirements of CEQA and NEPA and submit copies of any environmental documents (including, but not limited to, any environmental impact report(s), environmental impact statement(s), environmental assessment(s), negative declaration(s), CEQA findings), Project approvals and permits, and mitigation monitoring plan(s), as appropriate, and (2) all other applicable State and federal environmental requirements (including, but not limited to, requirements under the federal Clean Water Act, the federal Endangered Species Act, the State Endangered Species Act, and the California Fish & Game Code) and submit copies of the appropriate environmental permits, authorizations, and agreements. Furthermore, the Funding Recipient must have an Approval Letter from the State, in which the State has acknowledged that all of the environmental requirements have been met before the start of construction. The State will evaluate alternative ways of compliance on a case by case basis.

3.6 Real Estate Disbursement

Before the release of any funds associated with real estate capital costs, the State must approve, at a minimum, the Funding Recipient's Real Estate Plan and, for each parcel, the fair market value appraisals. The Phase I & II Environmental Site Assessments and the legal descriptions and deeds will need to be approved as described in Appendix A before the release of any additional funds.

3.7 Funding Recipient Obligation to Help the State Seek Federal Share

The State/local cost sharing percentages set forth in the Cost Share Guidelines are based on the assumption that the State and the Funding Recipient will have to pay in advance either some of or all of what would otherwise be paid by the federal government if the Project were authorized and funded by Congress. However, Proposition 1E specifies that the State is to seek the maximum feasible cost share from the federal government (California Public Resources Code Section 5096.820[b][1]). Thus, in every Funding Agreement, the Funding Recipient will be required to acknowledge that the State must have the full cooperation of the Funding Recipient in making the arrangements necessary to put the State in a position where Project costs will be eligible for federal credit or reimbursement. Specifically, the Funding Recipient will be required to follow the

USACE's current Section 221 Crediting Guidance Document and agree to a requirement that the Funding Recipient secure a Section 221 MOU for federal crediting with USACE before any construction funds are released by the State. If the federal government authorizes credit or reimbursement for the work done with bond funds, the Funding Recipient will be required to work with the State to help assist the State to get its share of the benefit of that credit or reimbursement. These requirements may be waived by the State, at its sole discretion.

3.8 Basin Plan and Project Spending Cap

Except as otherwise specified herein, all Applicants will be required to submit a Basin Plan, which the State must approve in writing. A Basin Plan is an overall plan for improving flood management within a Basin, which may include one or more Projects.

The Basin Plan will contain a summary of previously completed Projects, planned Project's schedules, cost estimates, and proposed cost share percentages for achieving a specific level of flood protection. The Basin Plan must be prepared by a professional civil engineer registered with the State of California and be adopted by the Funding Recipient (and all other Local Agencies that will participate financially in the Basin Plan, and that have responsibility for the flood protection infrastructure, in the Basin). The Basin Plan must provide at least 200-year flood protection for urban areas of the Basin by way of one or more Projects. The Basin Plan and Project(s) should include any non-Project levees that are necessary for protecting the Basin.

The Basin Plan must explain how it will be consistent with the SSIA (see Section 5.1). It will also explain how individual Projects will make an effort towards being consistent with the SSIA. The Basin Plan should describe an integrated approach to flood and ecosystem management, including both structural and non-structural approaches. The State encourages Applicants to engage in early, collaborative planning with resource agencies to identify ecologically important natural resources so that potential adverse impacts can be avoided or minimized early in the planning process. To reduce delays in project approvals, mitigation may be directed to habitat priorities rather than scattered among isolated mitigation projects that are not ecologically linked or sustainable.

Proposition 1E provides that “funds shall be available for ‘Improving or adding SPFC facilities to increase levels of flood prevention for urban areas’ and that ‘Not more than two hundred million dollars ($200,000,000) may be expended on a single project, excluding authorized flood control improvements to Folsom Dam.’” California Public Resources Code Section 5096.821(b). Therefore, each Project that is an Improvement Project is capped at a $200 million contribution from California Public Resources Code Section 5096.821 funds. The cost of repair work is not counted against the $200 million cap.

For example, one way to define a Project is by levee segment. A Basin Plan may indicate that an entire Basin will include work on the levees and identify the first Project as the highest-risk levee segments, and subsequent Projects will include the remainder of the segments in the basin. Another example of defining Projects would be according to levee insufficiency. In this example, the first Project may address seepage issues and the second Project may address stability issues. In these examples, each Improvement Project may qualify for $200 million under Proposition 1E.

However, Applicants are cautioned that the State will not fund work on related Projects that could have been avoided by thorough planning and coordination of related Projects. The State considers such projects regrettable. The State, for example, would not want to cost share in a Project providing an intermediate Level of Protection (e.g., the 100-year Federal Emergency Management Agency [FEMA] level) that included a 30-foot deep slurry wall that would later need to be 5 feet deeper to achieve 200-year protection. Under this scenario, it is unlikely that the 200-year Urban Level of Protection would ever be achieved because the State would only share in the nominal incremental cost of the additional 5-foot depth. The Applicant would be required to fund the cost of the duplicative slurry wall construction.

The State expects Applicants to propose an executable plan for their long-term needs to achieve a 200-year or greater Level of Protection, not just for the intermediate Project currently under study, design, or construction. The Basin Plan must include a long-term plan that describes how the phased Projects will be accomplished in a cost-efficient manner. Duplicative or inefficient work resulting from a failure to take a long-term, coordinated approach to flood facility construction will not be funded.

A preliminary Basin Plan is acceptable for the concept paper review and for feasibility studies provided that at the time of execution of a Design and/or Construction Funding Agreement, a final Basin Plan is completed and has been submitted and approved by the State in writing. In the sections that follow, everything that is italicized must be included in the preliminary Basin Plan.

However, all of the remaining requirements must be included in the final Basin Plan.

A Basin Plan should include the following items at a minimum:

- *Existing Conditions and Deficiencies*
- Hydraulics and Floodplain Mapping
- *Basin Plan to achieve 200-year or greater Level of Protection*
- *Project(s) Description*
- Basin Plan Alternatives
- Preliminary CostShare Recommendation
- Schedule
- Any programmatic approach to permitting
- Any proposal for how to mitigate for impacts to other measures taken for avoidance and minimization (Best Management Practices)

4. PROJECT ELIGIBILITY

A Project will be defined per Section 2 as distinct work that is separately identifiable and physically separable from other work in the Basin and will on its own, or as part of other work, restore, replace, or improve performance of a facility or facilities of the SPFC. The UFRR Program is limited to Urban Areas of the Sacramento-San Joaquin Valley. Eligible Projects include Feasibility Studies, Design Projects, and Construction Projects.

4.1 Eligible Feasibility Studies

Feasibility Studies will comply with the current Guidelines for Development of State Led Feasibility. These studies will be used to investigate and recommend solutions to water resources/flood risk reduction deficiencies. The process will begin with project scoping, continue with a robust alternatives analysis, and then clearly identify a preferred alternative. Each study will incorporate quality engineering, economics, real estate, and environmental analyses, with the goal of ensuring that the Feasibility Study results in actionable and concise decision documents within a reasonable time frame and cost.

4.2 Eligible Design Projects

Design Projects will comply with all applicable Project requirements under these Guidelines and will be funded at the State's discretion. Design Projects will be ranked using the ranking system described in the PSP. The State will score each Design Project as though it were a Project for construction work. Design Projects should be intended to result in a Repair Project or an Improvement Project, but funding of a construction project is not guaranteed solely on the basis of a Design Project being funded. As a result, the Applicant should submit a Basin Plan, a preliminary Financial Plan, and all other required submittals so that the State can use these documents to rank the Design Project. Design Project Applicants must demonstrate that they will have the funds necessary to construct their design. Design Projects are not required to have completed environmental compliance.

As described in the Cost Share Guidelines, the State will cost share the Design Project. Eligible design projects may include, but are not limited to:

- Design of flood risk reduction features
- Design of relocations
- Environmental compliance work (CEQA, NEPA, etc)

- Regulatory approvals and permitting
- Project real estate plan preparation
- Real estate support activities
- Development of O&M manual

If the Construction Project resulting from the Design Project ultimately achieves a different State cost share, the State will reconcile the difference with the Funding Recipient for design and environmental compliance work. No credit will be given for work completed before Proposition 1E was approved by the voters on November 7, 2006.

Design Projects do not require an OMRR&R agreement; nor do they fund any Real Estate Capital Costs. Real Estate Support Costs for a Design Project may be Eligible Project Costs as described in Section 6.

As flood-protection design and hydrology are evolving, Applicants may submit Project designs that build in an additional robustness and resiliency. The State may fund Projects that add more height to the design water surface elevation for the Project due to climate change, sea-level rise, etc. The State has an approved ULOP and ULDC that are applicable to levee designs for UFRR Projects.

4.3 Eligible Construction Projects

Construction Projects will be either Repair or Improvement projects and will comply with all applicable Project requirements under these Guidelines. Construction Projects will be ranked using the ranking system described in the PSP.

4.3.1 Eligible Repair Projects

The Applicant must specifically document that the Project repairs, rehabilitates, reconstructs, or replaces levees, weirs, bypasses, or other facilities of the SPFC within an Urban Area. Eligible Repair Projects include, but are not limited to: Repairing or replacing existing levees, weirs, bypasses, or facilities, including repairing existing Setback Levees or repairing existing Ring Levees[1] (see Section 4.5.1), and any other facilities of the SPFC;

[1] Proposition 1E § 5096.821(a) allows for the “evaluation, repair, rehabilitation, reconstruction or

Raising levees to correct freeboard deficiencies with respect to the USACE-authorized design; and
Implementing mitigation measures, including capital costs related to mitigation, through participation in a Natural Community Conservation Plan. Mitigation must be directly related to the flood Projects in the Basin Plan.

A Project qualifies as a repair if it restores the levee up to the intended Design Level of Performance. If a Project restores a facility to a higher level of protection than originally intended, it is an improvement, not a repair. A professional civil engineer registered with the State of California must certify: (1) the original Design Level of Performance for the Project; (2) the current Level of Protection (e.g. 50-year Protection); (3) the Design Level of Performance after the repair; and (4) the proposed Level of Protection after the Project.

If the Design Level of Performance after the repair will be equal to or less than the original Design Level of Performance, then the Project is an Eligible Repair Project (if it also meets the other eligibility requirements);
If the Design Level of Performance after the repair will be greater than the original Design Level of Performance of the facility, then the project is not an eligible Repair Project.

Routine maintenance on a levee or other flood-management facility is not considered a repair for purposes of funding under Proposition 1E. For purposes of this program, erosion repair and sediment removal will not be considered repair activities unless the proposed work is necessary for the Project and not a result of deferred maintenance. All such work must be completed with other funding sources.

4.3.2 Eligible Improvement Projects

Improvement Projects increase the Level of Flood Protection for an Urban Area by improving facilities of the SPFC. Maps indicating which levees protect existing Urban Areas are available from the State.

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replacement" of facilities of the State Plan of Flood Control. It further qualifies these actions, stating that they may occur "by all the following actions." The only "following" action that fits "replacing" is § 5096.821(a)(2), which allows for "evaluating and repairing levees and any other facilities of the State Plan of Flood Control." The word "replacing" is tied to "repair" is important—it indicates that Proposition 1E only allows for replacement where such a Project is clearly a repair.

Eligible Improvement Projects may include, but are not limited to:

- The construction or improvement of weirs, bypasses, and channels;
- The construction of new levees, such as Setback Levees and, where appropriate, Ring Levees;
- The construction of improvements to existing levees;
- The raising of existing levees to reduce the risk of overtopping and to address freeboard deficiencies; and/or
- The modification of existing Project dams and waterworks, including spillways, outlets, or other related capital-outlay facilities for the purpose of improving low-level discharge and flood-management storage capacity.

Eligible project componentsare elements and features of a project and may include, but are not limited to:
Construction of detention basins necessary for the Project function;
Removal of structures within the Project area;
Relocation or reinforcement of utilities and transportation facilities within the Project area that are directly impacted by the Project;
Installation of drainage improvements for flood protection systems, flood warning systems, or telemetry devices;
Purchase of Project-required lands, easements, or rights-of-way;
Project-related environmental mitigation establishment, including mitigation through participation in a natural community conservation plan; and/or
Instrumentation associated with construction of the Project, such as piezometers.

4.4 Ineligible Projects and/or Project Components

Examples of the types of Projects that will not be eligible Repair Projects include:
Repair of a facility that is not part of the SPFC. Funding Recipients that want to propose work for non-SPFC facilities should consult with the State at the earliest possible time;
Elevation of threatened homes where there is no direct connection with facilities that are part of the SPFC;
Work on a levee or other flood protection facility that raises the Design Level of Performance or Level of Protection higher than the intended original facility design; and
Routine maintenance of an existing facility, including repair of erosion damage and removal of sediment from channels and bypasses.

Examples of the type of Projects that would not be eligible Improvement Projects include:
A Project that does not restore or increase the Level of Protection for an Urban Area; and
Construction of new flood protection infrastructure to provide flood protection for a community that is not currently protected by SPFC Facilities.

Ineligible Project components include:
Hydrologic, hydraulic, geologic, and geotechnical investigations of State-federal levees not directly required for the Project, unless directed by the State; and
Habitat restoration not directly related to Projects.

4.5 Special Situations

4.5.1 Ring Levees and Cross Levees

Proposition 1E authorizes the construction of new facilities of the SPFC for projects that increase the level of flood protection in Urban Areas; thus, Ring Levees and Cross Levees that provide such protection can be funded as new facilities of the SPFC and will be cost shared up to 95% at the State's discretion.

Projects in the Delta

The UFRR Program is specifically intended to provide Proposition 1E funds for projects that are or will be in the SPFC, which includes projects in the Sacramento River and San Joaquin River Watersheds. Proposition 1E also provides funds for the Delta Levees Program that are awarded through different programs. Some projects in the Delta may be eligible for one or both programs as described below.

Projects in the Primary Zone of the Delta:
Levee improvements within the Primary Zone of the Delta may be funded through the Delta Levees Program.
Repairs of Project levees (SPFC facilities) in the Primary Zone may be funded through either the UFRR Program or the Delta Levees Program.

Projects in the Secondary Zone of the Delta:
Repairs and improvements for non-Project levees in the Secondary Zone of the Delta may be funded through the Delta Levees Program.

Improvements to Urban non-Project levees in the Secondary Zone may be funded through the Delta Levees Program or, if the levee is likely to be added to the SPFC, through the UFRR Program.
The UFRR Program may fund repairs to project levees and improvements to Urban Project levees.

Local Agencies are free to request funding through the Delta Levees Program or the UFRR Program, but each application must conform to the specific requirements of the funding program. In addition, the applicant must notify the State that a similar request was made from another State program so that the State can coordinate internally on the funding requests. A map showing the boundaries of the Primary and Secondary Zones of the Delta can currently be found at: http://www.delta.ca.gov/plan_map.htm.

4.5.2 Small Capital Projects

For small capital projects, projects for which Eligible Project Costs will not exceed $5 million, it is not necessary to provide a Basin Plan if the Project is cost-justified and the Applicant demonstrates that the Project will be consistent with any Regional Plan likely to be developed. Otherwise, the application requirements for small capital projects are the same as those for other projects.

5. PROJECT CRITERIA

To be considered for funding, all Projects must meet the requirements of the Criteria listed in the following sections. All projects must also use State data where such data are available (e.g., geotechnical, hydrology, or hydraulic modeling data). If the Applicant determines it is necessary to obtain the same data itself, the Applicant would need written State approval, in advance of obtaining the data, if it would like to receive State cost share for that work. Any data collected or produced using State funds should be in the standard format provided by the State and be made available to the State once completed for future use as deemed necessary by the State. For more information on available data and acceptable format, contact the UFRR Program Project Manager. If applicant has new data that is materially different from State data, State will, at it's discretion, review applicant's data and, if accepted, will cost share for that work.

Applicants must demonstrate that their Projects meet all 10 of the criteria described below. At the Concept Proposal stage, all Applicants must demonstrate that the proposed Project meets all 10 Criteria at a high level. If the State accepts the Concept Proposal and requests a full application, Applicant will be required to submit a full analysis for each Criteria if pursuing a Design or Construction Project. Feasibility Studies will not require a detailed analysis of the Criteria.

5.1 Criterion 1: Consistency with the State Systemwide Investment Approach, the Central Valley Flood Protection Plan, and Regional Priorities

The Project must be consistent with the SSIA of the CVFPP, and Integrated Water Management objectives[2] to establish State investment priorities. The State supports investing in "no-regrets" Projects and actions that clearly enhance system resiliency, integrate Projects and resources, and preserve flexibility for future generations. Funded projects should make a meaningful contribution towards supporting a systemwide approach to flood management that helps improve flood system resiliency and sustainability; that improve O&M and

[2] Integrated Water Management objectives are described in Table 1.1of the California Water Plan (http://www.waterplan.water.ca.gov/docs/cwpu2013/2013-prd/Vol3_Ch01_Introduction_PubReviewDraft_Final_PDFed_wo.pdf

emergency response; promotes ecosystem function; and wherever practical, provide multiple benefits as part of the project. The Project must also be consistent with Regional Priorities as documented in the corresponding Regional Plan.

The State will make a determination to ensure that the Project is consistent with the SSIA. SSIA consistency means that the Basin Plan or Project incorporates CVFPP principles[3] and contributes to Integrated Flood Management for the Basin objectives, which target flood safety, environmental stewardship, and economic sustainability.

In addition to contributing towards Integrated Flood Management objectives, the State will prioritize funding for multiple-benefit projects that provide significant contribution toward public safety, environmental stewardship, and economic sustainability. As described in the 2012 CVFPP, these multiple benefits include:

- **Improve Flood Risk Management**
    - People and Property at Risk: Reduce flood risk to people and property within floodplains protected by the SPFC.
    - Flood System Flexibility and Resiliency: Improve the ability of the flood management system to adapt to changing conditions (hydrologic, climate change, social, political, regulatory, or ecological conditions) and to continue to function and recover quickly after damaging floods.
    - Wise Floodplain Management: Wisely manage floodplains protected by the SPFC. Project will not increase State liability by causing urbanization of rural agricultural areas in deep floodplains. Manage and address residual risks, particularly in areas of deep or rapid flooding.
- **Promote Ecosystem Functions**
    - Ecosystem Processes – Improve and enhance natural dynamic, hydrologic, and geomorphic processes.
    - Habitats – Increase and improve quantity, diversity, quality, and connectivity of riverine aquatic and floodplain habitats.
    - Species – Contribute to the recovery and stability of native species populations and overall biotic community diversity.

[3] 2012 CVFPP: Attachment 7, Chapter 5

    - Stressors - Reduce stressors related to development and operation of flood management system that negatively affect at-risk species (e.g., reduce revetment, amount of disconnected floodplains, fish passage barriers, and invasive plants.)
- **Promote Multi-Benefit Projects**
    - Integrated Water Management – Promote design of multi-benefit projects that integrate other resource needs (water supply, recreation, open space, effective flood emergency response, protection of State facilities, storage etc.), where feasible.
- **Improve O&M**
    - Long-term Cost of O&M – Reduce Systemwide maintenance and repair requirements by modifying the flood management systems in ways that are compatible with natural processes, and adjust, coordinate, and streamline regulatory and institutional standards, funding, and practices for operations and maintenance, including significant repairs.
- **Improve Institutional Support**
    - Improve Institutional Support – Develop stable institutional structures, coordination protocols, and financial frameworks that enable effective and adaptive integrated flood management (designs, operations and maintenance, permitting, preparedness, response, recovery, and land use and development planning).

Applicant is required to present analyses that demonstrate consistency with the Criteria above and the questions below as part of its Application:

- Could the risk reduction objectives of the Project be feasibly achieved by realigning one or more levee segments in such a manner as to increase the potential for enhancement of floodplain or aquatic habitat values, reducing the potential for erosion (may require ongoing bank or levee armoring), or reducing flood stages in the region?
- Could the risk reduction objectives of the Project be feasibly achieved by improving segments of the Sacramento River Flood Control Project or San Joaquin River Flood Control System (e.g., their bypass systems) in a manner that could provide significant flood-risk-reduction benefits to protected lands outside the Project area?
- Would the Project render an alternative regional project infeasible by creating obstacles (hydraulic, economic or otherwise)?

- Has both the Basin Plan and Project been formulated without consideration of an integrated multi-benefit project? Has the Basin Plan and Project missed feasible opportunities to be an integrated multi-benefit project?
- Does implementing this project preclude any future multi-benefit or ecosystem function improvement projects?

As part of this effort for construction projects, the Applicant must conduct and submit a hydraulic impacts analysis to the State with a UFRR Program application. The analysis should use a procedure such as the USACE procedure currently available at http://www.hec.usace.army.mil/publications/ProjectReports/PR-71.pdf or at http://www.publications.usace.army.mil/Portals/76/Publications/EngineerCirculars/EC_1165-2-216.pdf. Other alternative methods of hydraulic analysis may be accepted if the work does not require a Section 408 major permit from USACE and if the State agrees in writing to the alternative method.

To evaluate potential ecosystem benefits of project proposals, State will use the Conservation Framework, adopted in 2012 (Attachment 2 to the 2012 CVFPP), and any subsequently updated or amended versions to determine consistency with SSIA.

Before approval, the State will screen a Project to ensure that it generally does not trigger affirmative responses to these questions. The State will also consider whether systemwide or regional measures are planned that would substantially reduce or preclude the need for the proposed Project and if these measures could be reasonably expected to be implemented within the next 10 years.

5.2 Criterion 2: Readiness

Applicants must demonstrate that their proposed construction Projects are ready to proceed.

The State may enter into a Funding Agreement, but will not disburse funds under the Funding Agreement before the CEQA/NEPA process is complete and the Notice of Determination is issued. However, the State will consider Feasibility Study Funding Agreements, Design and Construction Funding Agreements, Design-Only Funding Agreements or Construction-Only Funding Agreements. Under such Funding Agreements the State may, at its sole discretion, fund

design work ahead of CEQA compliance so long as adequate flexibility is retained during the CEQA process. Then, at its discretion, under the same or a different Funding Agreement, the State may fund construction work by issuing an Approval Letter once CEQA/NEPA compliance work is complete. The State will consider funding ready-to-go Project Elements, rather than the entire Project itself, on a case-by-case basis. If Project work is anticipated to span multiple construction seasons, the State will consider whether to approve, for the current UFRR Program cycle, an Element of the Project instead of the entire endeavor. The Applicant must provide a detailed schedule with supporting documentation, including, but not limited to, plans and specifications; CEQA and, if applicable NEPA compliance; and details on any required permits. If the CEQA process requires an Environmental Impact Report, the USACE may also require an Environmental Impact Statement. Projects deemed ready to proceed will have completed final design, achieved CEQA/NEPA compliance, and obtained all applicable permits at the time of application submittal. The Applicant, which is the Lead Agency for CEQA purposes, should consult with the State as early as possible during the CEQA process. In particular, the State expects that Applicants consult with the State on the analysis of growth-inducing and hydraulic impacts included in the CEQA work and that the CEQA analysis of these two elements is both detailed and thorough in scope such that it meets the State's expectations. The State's accepted procedure for performing hydraulic impact analyses is discussed under Criterion 1.

If the Applicant has not consulted with the State regarding its analysis of growth-inducing and hydraulic impacts during the CEQA process, the Applicant will be required to justify in writing the approach used to address these impacts as part of the application process. The State may require additional analysis and may disqualify the Project if the additional analysis identifies additional work needed to mitigate the impacts that changes the Project's cost to the point that it is no longer eligible for funding in relation to other Projects.

The State may also consider funding Design-only Projects to help accelerate design for Projects that are not expected to be bid and/or begin construction by the end of the next construction season. These Applicants must meet all the applicable Project requirements outlined in these Guidelines.

If CEQA has been completed at the time of application, the Applicant should include a copy of the Environmental Impact Report, Negative Declaration, Notice of Determination, or Notice of Exemption, as appropriate, with a written statement from the lead agency's legal counsel stating whether legal challenges have been made within the specified statute of limitations for the Notice of Determination or Notice of Exemption, and if challenges have been made, the nature and disposition of those challenges. If CEQA has not been completed at the time of application, the Applicant must complete the CEQA process, including the necessary hydraulic impact analysis, before construction can take place; if the Applicant has not completed this process, the State reserves the right, after its review of the CEQA documentation and hydraulic impacts analysis, to decide whether to continue to fund the project or to require changes, alterations, or other mitigation.

The CEQA documentation for a Project should generally be consistent with the approach, analysis, mitigation measures, and conclusions contained in the programmatic environmental impact report for the 2012 CVFPP, as well as any subsequent CEQA documents prepared by the DWR or the CVFPB for similar projects. To the extent applicable, in order to promote consistency and cost-effectiveness, the Applicant should consider "tiering" to one or more of these documents.

For applications that are selected for construction funding, it must be demonstrated that they have complied with all applicable requirements of CEQA and NEPA, and the State must make an independent decision as a responsible agency under CEQA, before the State will issue an Approval Letter authorizing construction or disburse any construction funds.

A list of required permits and notices, and their status, showing that each of these has been or will be completed should be submitted as part of the Application. If a permit is likely to require mitigation as a condition of approval, an explanation of how that mitigation will be achieved and the funding mechanism should be identified, as well as the associated cost. Applicants must pursue an integrated approach to environmental compliance. For on-site as well as multi-project mitigation, the applicant shall account for the long term monitoring of the mitigation sites within their draft amendment to the O&M

manual and the annual costs shall be incorporated into the Financial Plan of the Basin Plan.

5.3 Criterion 3: Basin Plan

A Basin Plan is an overall plan for improving flood management within a Basin, which may include one or more Projects. The Basin Plan is required as part of Project applications and needs to be approved by the State. The proposed Basin Plan must be consistent with Regional Priorities. More information on Basin Plans can be found in Section 3.8 above.

Applicants must demonstrate that:

- There is a Basin Plan that includes a plan for achieving 200-year or better Level of Protection for the Basin's Urban Areas;
- There are Projects that fit into a Basin Plan which describe the project phasing and how the projects will be built; and
- There is a schedule (by phase), a cost estimate (by Project and phase), and proposed cost share percentage (by Project Element and Feature).

5.4 Criterion 4: For Levee In-Place Repairs and Improvements Only

If the Project would repair or improve a levee in place, Applicants must demonstrate that the in-place levee repair or improvement is necessary because it is clearly infeasible to move the levee and there are no significant flood risk management benefits to moving the levee.

Applicants must demonstrate that opportunities have been examined to provide additional room for the river in question to meander, thereby enhancing channel capacity, reducing chance of scour and levee erosion, and providing flood-risk management and environmental benefits. This will help the State to evaluate the Project in terms of investing in "no-regrets" programs and actions that clearly enhance system resiliency, integrate projects and resources, and preserve flexibility for future generations.

These alternatives should satisfy the objectives addressed with the proposed repair-in-place or improve-in-place Project. If moving the levee (such as a Setback Levee) does not provide significant flood protection benefits to more than one Area, the supporting documentation must include a hydraulic analysis and study using applicable modeling. Using the results of this analysis, the Applicant must make a recommendation. The State will then evaluate the

information provided to determine whether to participate in either alternative. If the State prefers one alternative, such as a setback levee alternative, and the applicant proceeds with another alternative, the State reserves the right to not fund the project or that particular portion of the project.

5.5 Criterion 5: Economic Feasibility

Applicants must demonstrate that the Project is economically feasible, taking into account both local and systemwide benefits and costs. Projects should incorporate multiple benefits (such as protecting State facilities and ecosystem enhancement). In general, a Project is economically feasible when the discounted value of all benefits over the life of the Project exceeds the discounted value of the costs, expressed on an average annual basis (i.e., benefit-cost analysis).

DWR published a Handbook for Assessing Value of State Flood Management Investments (HAV). The HAV describes a broad array of benefit categories applicable to integrated flood management investment evaluations, including:

- Flood management
- Ecosystem restoration
- Water supply and quality
- Recreation and open space
- Hydropower
- Navigation
- Commercial fisheries
- Reduced long-term system maintenance costs
- Other effects, including regional economic and social effects

For each benefit, HAV describes:

- The conceptual basis of the benefit;
- The USACE approach to computing the benefit;
- The DWR approach to computing the benefit, including recommended software applications (i.e., the USACE HEC-FDA); and
- Consistency between DWR and USACE approaches (required if federal funding is being requested).

HAV also describes Project costs that are to be included in the analysis, including capital and OMRR&R costs.

Two special situations require further clarification: evaluating ecosystem restoration benefits and accounting for future growth:

- Ecosystem benefits evaluation: The HAV describes methods to evaluate ecosystem benefits monetarily and non-monetarily. If USACE funding is being requested, ecosystem benefits must be evaluated using nonmonetary methods because the USACE does not monetize these types of benefits. The HAV describes a combined plan analysis in which total project costs are allocated to project purposes for which benefits are monetized (for example, flood risk management) and to project purposes for which benefits are not monetized (for example, ecosystem restoration), consistent with USACE methods. Once the costs are allocated to these project purposes (separable costs and the appropriate share of joint costs), a traditional benefit-cost analysis is conducted for the project purposes for which benefits have been monetized and a cost-effectiveness/ incremental cost analysis is conducted for the non-monetary project purpose, such as ecosystem restoration. This combined plan analysis requires the identification of the primary purpose of the proposed plan, which for UFRRP is flood risk reduction. The HAV describes the DWR-recommended cost-allocation procedure (separable cost and remaining benefits, or SCRB).

  The HAV also describes methods to monetize ecosystem benefits based on ecosystem services; however, these methods should not be used without first consulting DWR Economic Analysis Section staff. Monetized ecosystem benefits are not acceptable to the USACE.

- Future growth. For the UFRR Program, benefits and costs will be evaluated quantitatively for base year conditions. The base year is when project construction/implementation occurs and project outputs (e.g., benefits) occur after the base year. A base year analysis provides a check if the project is justified based on the existing level of development. However, because the economic analysis is conducted for a 50-year period, future growth is likely to occur, especially with implementation of the proposed Project. Thus, for the UFRR Program, a qualitative description of the level of development *expected* to occur with project implementation shall be provided. This description should include references to any locally adopted planning documents (such as a general plan) that describe the magnitude, location, and timing of planned growth in the study area and the relationship of the proposed Project

to that planned growth. Optionally, the applicant may complete a quantitative economic assessment of future conditions, taking into account changes in socioeconomic conditions (e.g., population, numbers, values, and locations of structures) and physical conditions (e.g., hydrology and hydraulics).

Although a benefit and cost analysis requires that everything be expressed in monetary terms, sometimes this is not possible. Thus, the State will also consider well-documented unquantifiable benefits of a project as a means of promoting integrated multi-benefit projects.

The HAV shall be used by UFRR Program applicants to guide their economic assessments. HAV is available online. The DWR Economic Analysis Guidebook is also available on this website, along with links to relevant USACE planning guidance.

The level of detail and accuracy of the economic analysis will depend on the nature of the Project. The quality of the economic analysis, the data, and the procedures need to be commensurate with the cost of the Project. In other words, a request for more money should correspond with a more detailed analysis.

The applicants should analyze and document all quantifiable and non-quantifiable benefits of the proposed projects (or project alternatives). The State will review the proposed projects and if two projects or a project with several alternatives have the same level of quantifiable costs and benefits, then the State will fund the project or the alternative that demonstrates more non-quantifiable benefits in order to promote flood management and multi-benefit projects as a vital part of integrated water management. The economic analysis is to be conducted using current price levels (in 2014 dollars), a 50-year analysis period, and DWR's discount rate (6%).

If the Applicant is seeking funding for a Project that is only the first phase of a Project, the State requires that the Project is either: (1) economically justified on its own or (2) economically justified as part of a Project that is highly likely to be completed.

5.6 Project Criterion 6: Alternative with Most Value

Applicants must demonstrate that they have selected the most feasible alternative that provides the most value for the State investments made while providing adequate flood protection.

The Applicant must perform a robust alternatives analysis. This analysis should address all feasible alternatives for achieving flood-risk reduction and ecosystem restoration. Possible alternatives include (1) repairing or improving the entire levee system in which the community exists; (2) repairing or improving a portion of the levee system near the community that would reduce the velocity and depth of flooding but not eliminate it; (3) various alignments for the proposed Project, including, where appropriate, Ring Levees and/or Setback Levees; (4) different sizes and/or configurations of ecosystem restoration elements; and (5) potential regional project alternatives. At a minimum, the Applicant is required to demonstrate a robust analysis for each of these alternatives. The Applicant is encouraged to submit analyses for other alternatives it considered. Also, the State may require that the Applicant consider additional analyses beyond those submitted. The State will fund the additional analyses required if State required.

Applicants may consult with the State in advance of preparing the required benefit-cost analysis of possible alternatives to determine whether the State believes that the Applicant has identified all feasible alternatives that should be analyzed. Applicants may also consult with State staff regarding how the benefit-cost methodologies should be applied to the possible alternatives.

The Applicant should include a benefit-cost review for each feasible alternative that takes into account all flood risk reduction benefits and other multi-benefit aspects of the Project. For ecosystem restoration benefits, a cost-effectiveness analysis can be used to demonstrate differences among plans for this element that is not captured in the benefit-cost analysis.

The methodologies for benefit-cost analysis for the Project as proposed are explained in Criterion 5 and should be the same as that used to establish eligibility. For the sake of comparison and consistency, the Applicant should apply the same economic analysis methodology to each alternative analyzed under the alternative analysis requirement in these Guidelines.

The benefit-cost analysis for the alternatives is more complex if the Applicant is within a basin with several flooding sources. In this situation, the task is to assess the incremental benefits (and costs) of proposed alternatives that may only repair or improve a portion of the basin's flood protection system (for example, levees) while other portions are not repaired or improved. The State recommends using USACE's HEC-FDA model to estimate the incremental benefits of repairing or improving individual segments of a levee or other flood protection system. This procedure is described in the State's proposed Handbook for Assessing Value of State Flood Management Investments.

The State will cost share the most cost-effective feasible alternative considering all the benefits attained through project implementation.[4] If the Funding Recipient chooses to construct a different alternative, the State may limit the cost share to the amount that would qualify for the State cost share if the most cost-effective feasible alternative were constructed.

In a circumstance where the most cost-effective economically feasible alternative and the best environmental alternative (under the CEQA/NEPA review) are not the same or in a circumstance where the ULDC in effect at the time an alternative is developed is not met, the State retains approval authority over Project selection. An example of the latter circumstance would be a Project that is expected to sustain significant seismic damage that could be mitigated by selecting a more-expensive alternative.

5.7 Criterion 7: Financial Plan

Each Applicant must demonstrate that it:

Has a realistic Basin plan and supporting financial plan for achieving the 200-year Level of Protection;

Has a sound financial plan and Statement of financial capability to fund its cost share to build the Project;

Can meet its financial obligations under the OMRR&R agreement for the Project because it has a sound financial plan to fund its obligations to perform O&M for

[4] A Setback Levee need not be more cost-effective than alternatives that would repair or improve a levee in place or more cost-effective than a smaller Setback Levee, because of other benefits that may be provided.

the Project and a sound financial strategy to fund its obligation to repair, replace, and rehabilitate the Project; and

A preliminary financial plan is acceptable at the application stage and for design agreements provided that at the time of execution of the Construction Funding Agreement, the funding is firm and a completed financial plan has been submitted and approved by the State in writing. In the sections that follow, everything except the italicized must be included in the preliminary financial plan. However, all of the remaining requirements must be completed before the Construction Funding Agreement is executed.

Before developing its financial planning documents, the Applicant should estimate what local cost share its proposed Project will have in accordance with the current Cost Share Guidelines. If the Applicant is uncertain of what cost share the Applicant may be entitled to under the Cost Share Guidelines, the financial plan should reflect the Funding Recipient's predicted cost share and a reasonable range of possible cost shares.

The financial plan for the Project, OMRR&R for the Project, the Project, and the Basin Plan must be reasonable in their accounting of federal matching funds. To be considered reasonable, the Applicant's discussion of federal funding must take into account the following:

Prior to disbursement of State funds for construction, the Funding Recipient must have a draft federal feasibility studyreport released to the public and a signed MOU for obtaining Section 221 federal credit.
The Funding Recipient must be actively engaged in the Congressional appropriations process for USACE funding.

A Financial Plan and Statement of Financial Capability will be necessary for local cost share and OMRR&R Expenses.

The Statement of Financial Capability for both of these categories should include: Evidence of the Applicant's authority to use the identified source or sources of funds, including compliance with any applicable legal requirements such as those contained in Proposition 218;

Information on the Applicant's ability to obtain necessary additional funds (if necessary);
A recent (within the last 3 years) credit analysis that demonstrates the Applicant is credit-worthy if the Applicant is relying on its full faith and credit to obtain remaining funds (as in the use of general obligation bonds, appropriations, or a repayment agreement);
An analysis that demonstrates the projected revenues or proceeds are certain and are sufficient to cover the Applicant's stream of costs through time, if the Applicant is relying on non-guaranteed debt (for example, a particular revenue source or limited tax, or bonds backed by such a source);
Comparable data for the third party, together with evidence of its legal commitment to the Applicant, if the Applicant is relying on third-party contributions; and
A list of all cash reserves (restricted and unrestricted) and any planned uses of these reserves.

The documentation used in the analysis should include audited financial statements for the last 3 years of the Applicant's operations (balance sheets, income statement, statement of sources and uses of funds, most recent annual budget, and, if applicable, water enterprise fund details). If the Applicant is a recently formed Joint Powers Authority, information from its member agencies should be provided.

5.7.1 Financial Plan and Statement of Financial Capability for Local Cost Share

The Financial Plan and Statement of Financial Capability should demonstrate that the Applicant has the financial resources to adequately fund its portion of the cost share for the Project, the Basin Plan, 10% retention, plus a reasonable contingency of at least 10% (the State reserves the right to require up to 15%). The Financial Plan and Statement of Financial Capability must be prepared by a person qualified to perform such financial analyses. *For the final plan, a Certified Public Accountant (CPA) or, preferably, a Certified Government Financial Manager (CGFM) must review and certify the plan.*

An Applicant that needs to obtain loans to secure the remaining funds must include (with its Financial Plan and Statement of Financial Capability for the

Basin Plan) information on these loans, including a description of the repayment method.

5.7.2 Financial Plan for OMRR&R Expenses

The Applicant or appropriate agency will be required to assume responsibility for operation, maintenance, repair, rehabilitation, and replacement for the Project under the terms of an OMRR&R agreement with the CVFPB. Before disbursement of construction funds, the Funding Recipient must reach a preliminary agreement on the draft addendum to the O&M Manual with the appropriate maintaining agencies and provide the draft addendum to the O&M Manual to the State for approval in writing.

The Applicant must demonstrate that it is financially able to properly operate and maintain the completed Project and any applicable mitigation and environmental enhancements. The Applicant will be required to provide a summary of the operation and maintenance costs for the Applicant's current flood-management facilities and to identify the source of revenue to fund such costs (for example, long-term maintenance, emergency/flood response capabilities, access, and fencing or delineating right-of-way limits).

The Applicant will be required to provide an estimate of operation and maintenance costs after completion of the Project and the impact of these costs on the current O&M budget of the appropriate maintaining agencies. The Applicant will also be required to identify a source of funds to address any additional O&M costs that may result from the Project. The State will consider the maintenance ratings of the levee(s) to be improved.

With respect to expenses for repair, replacement, and rehabilitation of the Project, Applicants must provide an estimate of such costs and demonstrate a sound financial strategy to fund such work. This portion of the cost estimate in future years should include an estimate of permitting and mitigation since these types of projects are typically more complex in nature.

5.8 Criterion 8: Requirement for State Assistance

Applicants must demonstrate that the Project is necessary and requires State funding.

The Applicant should discuss how the proposed Project increases public benefits, enhances public safety, and reduces State liability. This discussion should include information about how the Project provides flood protection benefits and reduces residual risk to existing structures; critical infrastructure; and cultural, recreational, and environmental resources.

Supporting documentation for this finding should include:

- Statement of Level of Flood Protection. Each Applicant should:
  - State the before-Project Level of Protection for the Basin and floodplain protected by the Project (if floodplain is significantly smaller than the Basin);
  - State the after-Project Level of Protection for the Basin and floodplain protected by the Project (if floodplain is significantly smaller than the Basin);
  - Characterize any residual risk remaining after the proposed Project is implemented and plans to mitigate this risk in case of Project failure, overtopping, etc.; and
  - Discuss how the Project increases public benefits, integrates multi-benefit actions, enhances public safety, and reduces State liability.
- Risk to existing structures. Each Applicant should:
  - List types and numbers of existing structures within flood hazard areas protected by the Project (residential, commercial, industrial, public, etc.).
- Risk to critical facilities/infrastructure. Each Applicant should:
  - List the types and numbers of critical facilities/infrastructure within flood hazard areas protected by the Project (e.g., water supply and treatment, hospitals, nursing homes, police/fire protection, utilities, highways, airports, flood protection facilities).
- Risk to cultural/recreational/environmental resources. Each Applicant should:
  - List types and numbers of existing cultural, recreational, and environmental resources within flood hazard areas protected by the Project (e.g., parks, wetlands, riparian habitat).

5.9 Criterion 9: Human Life Risk

Applicants must demonstrate that the Project will reduce or avoid risk to human life.

The Applicant must provide a detailed explanation of how the Project will reduce or avoid risk to human life. The State will presume that the Project will reduce or avoid risk to human life if it would reduce the risk of flood depth to a maximum of 3 feet. Thus, the explanation must include a description of the depth of flooding that would be expected if the site(s) of the proposed repair(s) or improvement(s) should fail. The State developed maps of areas where a depth of 3 feet of floodwater could be expected that may be of use to the Applicant in providing this description.

A map must be provided (in PDF format) to show the Project location and potential inundation areas. Any information that helps describe potential flooding characteristics (depths, duration, velocities, etc.) should be included.

The Applicant must also provide estimates of the following information about the floodplain that the Project will protect:
Number of people currently living within flood hazard areas;
Number of people with special needs currently living within flood hazard areas (elderly, low income, living in institutions, etc.); and
Projected growth in flood hazard areas, including estimates from the General Plan and any updated information.

5.10 Criterion 10: Applicable Laws

Applicants must demonstrate that the proposed repairs or improvements comply with all existing laws.

The Applicant should only propose Projects that are designed to comply with existing law. If funds are awarded, an Applicant will be required to sign a Funding Agreement that commits the Applicant to comply with all existing laws.

6. ELIGIBLE PROJECT COSTS

To determine the eligibility of certain types of costs, the State intends to use the same guidance document that USACE would use: Office of Management and Budget (OMB) Circular A-87. Also, for travel expenses, DWR form 9580 will be used as provided by the UFRR Program project manager.

Eligible Project costs are the reasonable and necessary actual costs associated with an eligible Project incurred after November 7, 2006 (date of passage of Proposition 1E), including, but not limited to, the following:

1. Eligible Real Estate Capital Costs specified in Funding Recipient's Approved Project Real Estate Plan, including the Real Estate Capital Costs needed to ensure adequate right-of-way for existing projects;
2. Eligible Real Estate Support Costs associated with Real Estate in the Funding Recipient's Approved Project Real Estate Plan;
3. Relocation Assistance Costs associated with Real Estate in Funding Recipient's Approved Project Real Estate Plan;
4. Project engineering, design, and construction costs;
5. Costs of obtaining necessary environmental permits and associated environmental establishment costs directly related to the proposed Project, including costs associated with preparing documents required by CEQA and, if applicable, NEPA to the extent permissible under Proposition 1E;
6. Costs of obtaining other necessary federal or State governmental approvals;
7. Legal fees associated with incurring Eligible Project Costs
8. Costs associated with preparing a feasibility study or alternatives analysis for the Project that is specifically approved or requested by the State. (Otherwise, such work is considered a preliminary study and is an ineligible cost.)
9. A proportionate share of reasonable overhead costs;
10. Costs of conducting an Independent Review;
11. Costs of preparing application for funding;
12. Travel, lodging, and meals for trips that are approved in writing by the State per the memorandum at: http://www.calhr.ca.gov/PML%20Library/2013026.pdf;
13. Time spent in meetings held out of area may be eligible if pre-approved by State in writing (e.g., meetings in Washington, DC, to facilitate USACE

approvals). However, neither travel time nor travel expenses are eligible; and

14. Reservoir reoperations projects that benefits Urban Areas downstream.

Costs that are not eligible include, but are not limited to, the following:

1. Operation and maintenance costs
2. Routine maintenance;
3. Purchase of equipment that is not an integral part of the Project;
4. Establishing a reserve fund;
5. Replacement of existing funding sources for ongoing projects;
6. Support of existing agency requirements and mandates;
7. Purchase of land in excess of the minimum required acreage established in Funding Recipient's approved Project Real Estate Plan;
8. Costs that the State does not authorize as part of final accounting;
9. Payment of principal or interest on existing indebtedness, any interest payments, or costs associated with project financing;
10. Costs incurred as part of any and all necessary response and cleanup activities required under the Comprehensive Environmental Response, Compensation, and Liability Act, Resource Conservation and Recovery Act, Hazardous Substances Account Act, or other applicable law;
11. Costs, including engineering and environmental expenses, associated with preliminary studies to choose the preferred alternative, except as associated with preparing documents required by CEQA and, if applicable, NEPA, to the extent permissible under Proposition 1E unless directed by the State (unless this is a funded feasibility study);
12. Costs associated with federal approvals that are beyond those deemed necessary for a standard Project (e.g., any and all travel expenses for Funding Recipients or their assigns to travel to Washington, DC, to lobby for an expedited schedule for project approval);
13. Cost of office furniture (including chairs, desks, printers, etc.), except as directly associated with the temporary office at the job site (where a case should be made for the purchase of the items instead of leasing them);
14. Cost of airfares that were not previously approved in writing by the State;
15. Duplicate work to obtain new data that the State already had available, unless previously approved by the State or as waived by the State;
16. Costs of travel more than 100 miles each way for professional services not approved by the State in advance of trip;

17. Costs incurred by the Funding Recipient for multiple resubmittals of reports, analyses, real estate documents, or other documents associated with the Feasibility Study, design, construction, and/or closeout of the project that are deemed inadequate by the State due to incomplete or insufficient work;
18. Meals for single-day trips or for meetings; and
19. Legal fees or costs incurred to dispute any element of the Funding Agreement with the State unless otherwise ordered by a court of competent jurisdiction.

With respect to the costs associated with environmental mitigation establishment and monitoring required by CEQA or permits, only those costs incurred for the first 3 years the mitigation and monitoring program is in effect may be considered Eligible Project Costs. These initial mitigation and monitoring costs include, but are not limited to, costs incurred to establish plants and monitoring of aquatic life. If the Funding Agreement for the Project is ready for financial closeout before the end of this 3-year period, the State, at its sole discretion, may make a lump-sum advance payment on the basis of a good-faith estimate of the State's share of the remaining mitigation and monitoring expenses that are expected to be Eligible Project Costs. After the mitigation and monitoring program has been in effect for 3 years, any continuing costs associated with environmental establishment and monitoring will be considered OMRR&R costs.

7. REQUIREMENTS FOR OBTAINING STATE CREDIT OR REIMBURSEMENT

No State credit will be given for work performed before Proposition 1E was approved by the voters on November 7, 2006. Work done after November 7, 2006, will be divided into two categories: non-construction and construction work. Although prior written approval is strongly advised any time a Funding Recipient anticipates it will request credit, the State will consider, on a case-by-case basis, crediting non-construction work performed without prior written approval. In contrast, the State must have issued prior written approval for actual construction work to be deemed creditable, and any conditions described in the written approval must be met before the credit is recognized.

Local credit will only be offered for work performed before the execution of the Funding Agreement; no lump-sum reimbursements. Only work performed after a Funding Agreement is executed may be eligible for reimbursement. Credit is to be applied first toward the Funding Recipient's share of the Total Project Costs. Any credit remaining beyond the Funding Recipient's cost share of the Total Project Costs may be applied to the Funding Recipient's share of Eligible Project Costs for subsequent flood protection work.

Credit will only be provided for work that is the alternative with the most value that contributes toward the Basin Plan. All credit invoices need to be provided within 90 days of execution of the agreement. However, any portion of the original work that needs to be removed later, the cost of redoing the work, and the cost of removal, will not be creditable or eligible for cost-sharing. If an alternative is implemented as part of a Project and later supplemental work is needed to complete the Basin Plan, the entire cost of work for that location must be demonstrated to be the alternative with the most value. To the extent that phasing of the work resulted in a different and more-expensive solution than the alternative with the most value had the work not been phased, credit and cost sharing will only occur up to the cost of the alternative with the most value. The State, at its sole discretion, may waive the most value requirement where sufficient justification is provided.

Credit will not be recognized for work a Local Agency conducts without the required permits.

Except as provided below, local credit will only be offered for work performed before the execution of the Funding Agreement; no lump-sum reimbursements will be provided and only work performed after a Funding Agreement is executed may be eligible for reimbursement. However, the DWR is authorized to provide reimbursement to funding recipients that execute a new funding agreement under the UFRR program, or that amend an existing funding agreement under the EIP program, for any expenditures associated with a project initiated under the EIP program if such expenditure was incurred after July 1, 2014 and before issuance of a funding commitment letter or funding agreement amendment, but in no case expenditures incurred later than October 1, 2015.

8. INDEPENDENT REVIEW

The State will require an Independent Review of each Project, Project Element, Project Feature, or work for which the Funding Recipient requests credit. This review may include early design review. This requirement also applies to design, construction, and the FEMA certification process. The State may waive this requirement in writing for specific project elements or features, such as certain relocations.

In performing the Independent Review for each Project, Project Element, Project Feature, or work for which the Funding Recipient requests credit, the State will apply, at its discretion, the following approach.

The Funding Recipient selects the panel of independent reviewers. The State must review and approve the reviewers selected by the Funding Recipient in writing as being appropriate for the Project before commencement of work under the Funding Agreement. The costs associated with independent review are Eligible Project Costs. Throughout the process, the Funding Recipient must consult in good faith with the State.

The Independent Review panel must consist of at least three, but no more than five individuals. The State must approve in writing the number of reviewers—as well as the reviewers themselves—assigned to an Independent Review panel. Reviewers must be individuals who are distinguished experts in engineering, hydrology, and other appropriate disciplines. Each reviewer must be a professional civil engineer licensed with the State of California in the appropriate discipline. The requirement for a California Professional Engineer may be waived on a case-by-case basis, but only after a case can be made that the reviewer has significant experience to justify waiving the qualification of a license in the State of California, and the project would be unreasonably delayed to find such qualified person with a State of California license. Reviewers must be free from any real or apparent conflict of interest. For instance, a Reviewer may not be employed by a firm that is working on the Project in any way. Furthermore, reviewers shall not be under contract with the State for any work that is either associated directly with or by reference to these Guidelines or Projects.

For reviews associated with work under 33 U.S.C. Section 408, the State may impose additional review requirements as needed to comply with federal guidance for complying with 33 U.S.C. Section 408.

An Independent Review may include a review of the project feasibility and alternative selection process, design, or construction activities before the initiation of physical construction, including early design review, and periodically thereafter. An Independent Review should also include review before, during, and after construction, and review on a regular schedule sufficient to inform the State of the adequacy, appropriateness, and acceptability of the design and construction activities for the purpose of ensuring public health, safety, and welfare. The State and Funding Recipient shall cooperate to ensure that reviews under this section do not create any unnecessary delays in design and construction activities. At a minimum, all Independent Reviews must consider applicable USACE requirements and the State's ULOP and ULDC.

An Independent Review shall be conducted in collaboration with the State. The State shall be promptly notified and invited to all meetings of the panel and provided opportunity to collaboratively develop the agenda and questions for each meeting (in consultation with the Funding Recipient). All documents provided to and delivered from the panel of reviewers shall be provided to the State at least 30 days in advance of such meetings, except upon agreement with the State for a shorter lead time.

When a Funding Recipient or community benefiting from levee work conducted under the Funding Agreement is requesting or planning to request accreditation of the levee(s) from FEMA under 44 C.F.R. Section 65.10, the Independent Review will include a review of the proposed certification package(s) to be submitted to FEMA, including all supporting documents, designs, analyses, and construction records. If an entity other than the Funding Recipient is providing the certification to FEMA, the Funding Recipient will be required to arrange for delivery of a copy of the proposed certification documents to the State. The Independent Review is to include all certification information pertaining to the entire levee system protecting the Area, including certification documents that have already been provided to FEMA. The Funding Recipient and/or other entities that will submit the certification package(s) to FEMA must agree to include in the package(s): (1) the report prepared by the Independent Review

panel; (2) the Funding Recipient and community responses to the report prepared by the Independent Review panel; and (3) the State's response to the report prepared by the Independent Review panel. The Funding Recipient shall provide to the State the responses from the Funding Recipient and community. In most cases, the requirement for Independent Review of FEMA certifications will be waived when the USACE is performing the certification. The State retains the sole discretion to require the Funding Recipient to implement the recommendations of the Independent Review panel. If the State requires changes that affect the final construction of the Project, such changes will be cost shared according to the cost-sharing rules established in the Funding Agreement.

9. GUIDELINE AMENDMENTS

Any or all of the eligibility criteria, requirements, or procedures specified in these Guidelines may be changed, substituted, or terminated and/or other criteria may be added at the State's discretion. They may also be changed as a result of State legislative actions associated with the passage of the annual State budget or other legislation. Amendments to the Guidelines will be publicly posted and made available for public comment for at least two weeks. If an amendment substantively changes these Guidelines such that an Applicant can make a showing that it would have qualified and would have submitted a proposal under the new Guidelines, the Applicant will be given the opportunity to submit the proposal for review unless a new PSP has been issued under the amended guidelines.

If the criteria are changed after issuance of any conditional funding commitment letters, the State will notify these Applicants of the changes and will request additional information, as needed, to determine if proposed Projects meet all applicable revised and/or new criteria. The State, after receiving the Applicants' responses, shall have the option to either (1) cancel the funding commitment, with no liability attaching to the State; or (2) offer a revised funding commitment letter, reflecting a changed funding amount and/or other changed conditions, followed by execution of a Funding Agreement.

APPENDIX A: REAL ESTATE REQUIREMENTS

A.1 Payments for Real Estate Costs

Unlike other Eligible Project Costs, certain expenditures made for land acquisition under the Funding Agreement will require review and approval in accordance with the State's established procedures for land acquisition. Thus, the procedures for obtaining payment of the State's share of certain Real Estate Capital Costs will differ significantly from the procedures used for obtaining payment of other Eligible Project Costs. Only costs incurred in a manner consistent with an approved Project Real Estate Plan will be considered for Eligible Project Costs under the Funding Agreement. Also, the Funding Recipient must abide by all rules, regulations, policies, and procedures identified and shown in the Real Estate Exhibit Binder (Binder) and identified in the Funding Agreement, for costs to be considered for cost-sharing by the State. The Funding Recipient must comply with all applicable provisions of the Relocation AssistancePlan as defined herein. The Binder will be included as an attachment to the Funding Agreement. There will be no disbursement of real estate Capital State cost share funds until a Real Estate Plan is approved by and is on file with the State.

A.2 Project Real Estate Plan

The Funding Recipient, after consultation with State, will need to determine the lands, easements, and rights-of-way necessary for construction and OMRR&R, including those rights required for the flood-management structures, temporary construction areas, mitigation sites, borrow sites, spoils sites, access/haul routes, staging areas, private utility relocations, and relocation assistance for qualified occupants of acquired property, as required by State and federal statutes, rules, and regulations. These lands may include additions to right-of-way for an existing Project if it can be shown, to the satisfaction of the State, that additional right-of-way is required for a flood-management project feature.

The Funding Recipient will be required to submit to the State a Project Real Estate Plan. Sample guidelines for such a plan will be provided as part of the Binder attached to the Funding Agreement. The Project Real Estate Plan includes such details as a narrative description of the real estate requirements, including a breakdown of the Funding Recipient's estimate of total acreage to be acquired, type of real property interests to be acquired, and cost projections of eligible real estate Project costs. The Project Real Estate Plan shall also include lands required for other Project purposes (e.g., mitigation, relocations, borrow,

disposal areas and other regulatory needs) and identify proposed end land uses for project lands. The Project Real Estate Plan must also include a property owner tract register (matrix) that identifies impacted property owners; the real property interest to be acquired, the area of acquisitions, a real estate requirement map exhibit, and design plans and specifications. The Funding Recipient may submit a Project Real Estate Plan by Project Element or Project Feature.

The Funding Recipient's Project Real Estate Plan will need to be based on, at a minimum, 60% designs, plans, and specifications, which shall include topographic drawings with the Project design features illustrated, assessor parcel numbers (APNs), property lines, flood-management structures, private-utility relocations with the responsible party to relocate or protect in place noted and the mitigation sites, borrow sites, spoils sites, access/haul routes, and staging areas. Additional items to consider include identifying potential uneconomic remnants, parcels to be acquired for exchange purposes, and a proposal for excess lands.

The Funding Recipient's Project Real Estate Plan must also include a baseline cost estimate that is broken down by discipline, staff, and projected hours for eligible real estate Project costs. The State will provide the Funding Recipient with written approval of the Project Real Estate Plan. The Funding Recipient is at risk of <u>not</u> receiving cost-sharing and/or reimbursement for land acquisition activities performed before receiving the State's approval of the Project Real Estate Plan and such activities performed not in accordance with the Project Real Estate Plan.

The Funding Recipient will need to provide or acquire all necessary real property services for all parcels in support of an approved Project Real Estate Plan in accordance with the land acquisition process described in the Funding Agreement, including the services and materials necessary to fulfill the land acquisition process and accomplish the following tasks:
Geodetic services, including field surveys; examination of title to all parcels, including obtaining preliminary title reports or litigation guarantees; clearance of exceptions to title; policy of title insurance; and the preparation of legal descriptions, maps, and deeds; all of which must be performed to the standard deemed acceptable by the State;
Appraisal of all parcels to establish the fair market value;

Environmental site assessment reports (also known as Phase I and Phase II Site Assessment Reports) to determine the existence of hazardous and toxic waste materials;
Preparation of a written offer, including the necessary acquisition documents (e.g., purchase agreements, maps, and deeds for all parcels)and all other necessary temporary entry permits, rights of entry, utility relocation agreements, and borrow and spoils agreements;
Negotiations for the acquisition of all parcels by deed and contract and/or condemnation (For parcels being acquired by condemnation, a signed order of possession shall be deemed “acquisition.” However, Funding Recipient should provide evidence that it used every reasonable effort to acquire necessary real property through voluntary transactions.);
Preparation of memorandums of settlement (MOSs) for transactional review and approval, including settlement justification, escrow instructions worksheet, and closing (A sample MOS is included in the Binder.);
Escrow and closing services required to consummate the transaction that is called for in the Funding Agreement, including clearing title at close of escrow, funding and issuance of a policy of title insurance (Samples of such documents are included in the Binder.);
Preparation of a land acquisition Final Accounting Package (FAP) (A sample FAP and its requirements are included in the Binder.); and
Preparation of a Relocation Assistance Plan.

Descriptions of these activities will be set forth in detail in the Funding Agreement. The Funding Recipient will be required to (1) keep the State informed of its land acquisition activities and the activities of its contractors; (2) consult with the State on matters concerning compliance with State and federal acquisition rules and regulations; and (3) provide complete access as requested to its records relating to such land acquisition.

A.3 Real Property Acquisition Disbursement Process

For acquisition of title or other interest in each parcel of land, the Funding Recipient may use any of the three disbursement approaches, described below, provided that a Project Real Estate Plan has been approved by the State.

Because the Funding Recipient may need to condemn only some of the parcels required to complete the Project, the State anticipates that the Funding Recipient

may use more than one of the three disbursement approaches. Regardless of which disbursement approach is used, if a Local Agency enters into an agreement to purchase real estate for the Project or indicates its assent to a proposed court order setting just compensation, the Local Agency is required to obtain the prior written approval of the State. A Local Agency that does not obtain prior written approval from the State is at risk of disallowance of any amount over what the State, at its sole discretion, determines is just compensation to the landowner. The State may, at its sole discretion, waive the requirement to obtain prior written approval of the State. These approaches are further explained below.

A.3.1 Standard Disbursement Approach

On completion of the applicable land acquisition standards and requirements set forth in the Funding Agreement, including submission to and review and approval by the State of a land acquisition FAP for each parcel acquired**,** the State will disburse 90% of its cost share of Real Estate Capital Costs to the Funding Recipient. The State will then reimburse the Funding Recipient the final 10% of its cost share after the final conveyance of property rights to the Sacramento San Joaquin Drainage District (SSJDD).

A.3.2 Advancement of State Cost share Before Completion of Land Acquisition Requirements

If requested by the Funding Recipient, the State will advance 50% of the State cost share of the appraised fair market value of the property after the State completes its approval of the Project Real Estate Plan, appraisal reports, and another 20% after the State completes its review and approval of cadastral and geodetic documentation, environmental site assessment reports, and remediation plan, if necessary, for the property.

The advance will be made directly to an escrow account established to hold funds for the seller of the parcel for release on closing. At closing, the State will advance into the escrow account for immediate release to the seller another 20% of the State cost share of the appraised fair market value of the property. If escrow has already closed, State will advance 90% of the State cost share to the Funding Recipient of the appraised fair market value of the property after the State completes its review and approval of the Project Real Estate Plan, appraisal reports, cadastral and geodetic documentation, environmental site

assessment reports, and remediation plan, if necessary, for the property. The State will then reimburse the Funding Recipient for the final 10% of its cost share of the property plus any unpaid associated Real Estate Capital Costs, up to the approved value of the Real Estate Capital Costs, after the final conveyance of property rights to SSJDD. If the amount approved is less than the amount already paid to Funding Recipient, the difference will be deducted from the State cost share for other Project expenses not yet reimbursed to the Funding Recipient. If the State cost share of the approved fair market value is higher than the State cost share of the amount outlined for Real Estate Capital Costs in Funding Recipient's Project Real Estate Plan, the State will pay the difference so long as total expenses paid to the Funding Recipient do not exceed the maximum amount of funds permitted to the Funding Recipient pursuant to the Funding Agreement. Any and all necessary environmental remediation shall be completed before transfer of the property to the State and the payment of the remaining State cost share.

A Funding Recipient shall submit a Relocation Assistance Plan to the State for approval. After the State completes its approval of the Relocation Assistance Plan and approves a request for advance of Relocation Assistance Costs, the State shall advance 90% of the State cost share of the Relocation Assistance Costs as identified in the Relocation Assistance Plan and specified in the request for advance of Relocation Assistance Costs. The State will reimburse the Funding Recipient for the remaining 10% of the State cost share of Relocation Assistance Costs after the Relocation Assistance Plan, associated file documents, and cost expenditures have been reviewed and approved by the Department of General Services. Sample guidelines for Relocation Assistance Plans and the request for advance of Relocation Assistance Costs are depicted in the Binder.

A.3.3 Eminent Domain Disbursement Procedures

If eminent domain proceedings are necessary pursuant to applicable law, including Gov't Code Section 7267.1, following its approval of the independent appraisal of the parcel submitted by the Funding Recipient, the State will (1) deposit 50% of the State cost share of the fair market value of the parcel, as determined by the independent appraisal, with the State Treasurer's Office; and (2) pay any additional associated Real Estate Capital Costs and reasonable Real Estate Support Costs, as required by applicable law, with the court.

After all other appraisal, transaction, cadastral, geodetic, and environmental site assessment reviews and approvals and after the court has filed an order of possession, the State will deposit an additional 40% with the State Treasurer's Office, totaling 90% of the State cost share of the court-approved total just compensation for the parcel. The final 10% will be paid after the Funding Recipient has adhered to the State's established land procedures for land acquisition and followed the entire approval process, including the submission and approval of a land acquisition final accounting package for individual parcels, as described in the Binder and after the final judgment from the court. Provided a court order approving the condemnation of the property has been made, no additional review and approval by the Department of General Services is required. However, such payments will be subject to the limit on total funds established in the Funding Agreement. Therefore, if the State cost share of the court-approved total just compensation is higher than the State cost share of the amount outlined for the property acquisition in the Funding Recipient's Project Real Estate Plan, the State will pay the difference so long as total expenses paid to the Funding Recipient do not exceed the maximum amount of funds permitted to the Funding Recipient pursuant to the Funding Agreement.

A.4 Excess Land

Effort should be made to fund only land that will eventually be needed by the Project for flood risk reduction features, O&M, drainage, irrigation, transportation, utility relocations, borrow, or environmental mitigation. In the event any lands, easements, or rights-of-way acquired by the Funding Recipient are not necessary for the Project, such lands, easements, or rights-of-way will need to be deemed excess and may be sold. On the sale of excess property, the State will receive the percentage of the proceeds that is the State share. Alternatively, the Funding Recipient may elect to retain ownership by paying the State the percent of the appraised value that is the State share. The State shall have a right of first refusal on any remnants offered for sale by the Funding Recipient. The State's right of refusal shall remain open for 60 days after the Funding Recipient gives written notice.

A.5 Leased Land

In the event any land acquired by the Funding Recipient is subject to a lease or leases, the Funding Recipient shall ensure that any such leases are identified in

the Project Real Estate Plan, including arrangements that address what happens to such lease interests on acquisition of title by the State. All proposed lease agreements must be approved by the State before negotiation and execution by the Funding Recipient. State must be given notice of all proposed modifications to lease agreements and must approve such modifications in writing before negotiation and execution by the Funding Recipient. Sample guidelines for lease agreements are depicted in the Binder.

In any event, all net proceeds received by the Funding Recipient from any such lease agreement shall be applied as a credit to the State on Statements of Costs submitted pursuant to the Funding Agreement. No land necessary for construction or operation of the funded improvements shall be subject to a lease when conveyed to the State without the express written consent of the State. At the time of transfer from the Funding Recipient to the State, all land acquired by the Funding Recipient pursuant to the Funding Agreement shall be free of any leases unless otherwise approved with the express written consent of the State.

Should the Funding Recipient proceed without written approval, the State will have the option to terminate the lease at the time of conveyance to the State with any losses by the lessee to be paid 100% by the Funding Recipient.

A.6 Demarcation of Right-of-Way

Any segment of levee that is repaired or improved through this program requires clear marking of property acquired, existing fee title, or easement with an approved permanent marking. This marking should be concrete in the ground and be visible above ground. The cost of placing such marking is considered a Project cost. However, the cost of maintaining the markers needs to be included in O&M budget.

APPENDIX B: OBLIGATIONS OF THE FUNDING RECIPIENT

The Funding Recipient is responsible for obtaining any and all permits, licenses, and approvals required for performing any work under the Funding Agreement, including those necessary to perform design, construction, and OMRR&R for the Project. The Funding Recipient will also be required to observe and comply with any applicable federal, State, and local laws, rules, and regulations affecting any such work (specifically, those including, but not limited to, environmental, procurement, and safety laws, rules, regulations, and ordinances).

B.1 Key Obligations During the Construction Phase

The Funding Recipient is required to meet certain obligations throughout the construction phase. The Funding Recipient requirements are discussed below.

B.1.1 Comply with Labor Code Requirements

The Funding Recipient will be required to keep informed about and take all measures necessary to ensure compliance with California Labor Code requirements, including, but not limited to, Section 1720 et seq. of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4), labor compliance programs (California Labor Code Section 1771.5), and payment of prevailing wages for work done under the Funding Agreement.

B.1.2 Submit Quarterly Reports

The Funding Recipient will be required to submit Quarterly Reports to update the State on the status of the Project. The first Quarterly Report will be required within 7 days of the effective date of the Funding Agreement and will include only a Subsequent Quarter Plan. A Quarterly Report shall be submitted each quarter thereafter until construction is complete. Each Quarterly Report must be submitted to the State by 45 days into the current quarter for the previous and coming quarter. These reports are to provide a summary of work performed in the previous quarter, work currently being performed, and the plan for the immediately upcoming quarter as described below:

- Previous Quarter Update
    - The Previous Quarter Update must include a discussion of the work performed and the cost of that work. It should also include a Statement of Costs identifying each individual invoice for the quarter and a Statement of Interest earned on State funds each

quarter. The Statement of Interest must be reconciled each quarter. The Funding Recipient will be required to submit these progress reports to secure continued disbursement of State funds.

  - The Previous Quarter Update must summarize the current earned value of the work completed for the Project. The Statement shall include an evaluation of the scope, schedule, and budget as compared to the Overall Work Plan to provide evidence that the Funding Recipient will have sufficient funds to pay its share of the Eligible Project Costs required to complete the Project, as well as staying on schedule. If there are any deviations from the Overall Work Plan, a discussion of the deviation must be included.

- Current Quarter Update
  - The Current Quarter Update will include a description of work being performed in the current quarter. This shall include a discussion of the scope of work and projected cost.

- Subsequent Quarter Plan
  - The Subsequent Quarter Plan will include detailed information for the quarter after the current quarter regarding the work to be performed, the projected budget for this work (broken down to show individual items and tasks), and the expected monthly schedule.

B.2 Payments For Eligible Project Costs

Eligible Project Costs may be covered by advance payments. Advance payments are made on a quarterly or semi-annual basis. Such payments are made on the basis of estimated budgets included in Quarterly Work Plans. The payments are reconciled on the basis of a Statement of actual Eligible Project Costs. If necessary in the sole judgment of the State, the State may make funding available earlier or in a different manner to ensure that funds are available to a Local Agency when needed for construction work.

B.2.1 Quarterly/Semi-Annual Advance

The State shall make payments on the basis of the information in the Quarterly Reports. These payments will be based on the estimate of the costs of the work projected for the following quarter and reconciliation of Eligible Project Costs (excluding Real Estate Capital Costs) for the work performed in the previous quarter. The justification of the work performed in the previous quarter will

require the Funding Recipient to provide Statements of incurred Eligible Project Costs.

The State will determine the payment amount for the Quarterly Report based on total invoices from past quarters and total work projected in future quarters. The State's total amount of all advance payments shall not exceed 90% of the total estimated cost in the State's share of Eligible Project Costs payable under the Funding Agreement.

If the State determines that advances exceed the State's share of total actual Eligible Project Costs, the State may withhold advance payments equal to amounts advanced in excess of the State's share of Eligible Project Costs, but only after the Funding Recipient has had an opportunity to meet and discuss with State any alleged excess payments. Thirty days before expiration of the Funding Agreement, Funding Recipient will be required to remit to the State any advance payments that exceed the State's share of actual Eligible Project Costs. All advance payments will be used only to pay Eligible Project Costs for performing all or part of a task or item in the Project budget.

B.2.2 Withholding

From each disbursement of funds for Eligible Project Costs, with the exception of funds disbursed for real estate payments and quarterly advances, the State will withhold 10% of the State share until the Project Element for which the payment is made is completed or, if the work on a particular Project Element is further divided into Project Features, until the work on a Project Feature is completed. A Project Element or Feature will not be considered completed until it satisfies all requirements of the Project Closeout, which is outlined in the Funding Agreement.

In cases where the State is holding significant retention dollars on a project, the State may, at its sole discretion, consider reducing the retention to 5% or less based on the State's evaluation of performance and remaining risk, andwhen significant closeout requirements have been met. Items to consider when establishing the available balance to be released to the Funding Recipient would be pending real estate payments, expected environmental establishment and monitoring costs, excess real estate, excess contract dollars, interest, or lease

proceeds due to the State. Withheld funds cannot be released for operation and maintenance of the Project because these are not Eligible Project Costs.

B.3 Key Post-Construction Obligations

The Funding Recipient's responsibility to the State does not cease after construction of the Project is completed. The following is a brief discussion of the "post-construction" responsibilities that a Funding Recipient will face after completing the Project:

B.3.1 Operation, Maintenance, Repair, Replacement, and Rehabilitation

The Funding Recipient will be required to provide to the State an acceptable detailed draft addendum to the O&M Manual prior to construction disbursement see Section 3.5. This manual will be consistent with the requirements of 33 C.F.R. Section 208.10 and other applicable USACE engineering regulations.

The Funding Recipient will need to execute an agreement with the CVFPB, or a successor thereto, that sets forth the obligations of the Funding Recipient to do the OMRR&R work for the Project. Refusal of Funding Recipient to do the OMRR&R work may, at the option of the State, be considered a breach of the Funding Agreement and may be treated as contract default.

If the Funding Recipient is not currently responsible for the OMRR&R of the associated federally authorized Project, the Funding Recipient will need to submit a legally binding agreement with an appropriate legal entity that requires that legal entity to seek to enter into an OMRR&R agreement with the CVFPB, or any other successor thereto. If the local maintaining agency is the State, concurrence will be required, but no agreement will be necessary.

B.3.2 Reporting Obligations

The Funding Recipient will be required to submit a Project Completion Report within 90 calendar days of completion of all tasks associated with the Project. The report will consist of items, including, but not limited to, a description of actual work done, a final schedule showing actual progress versus planned progress, and copies of any final documents or reports generated or used during the Project. The report and required materials are to be provided in a format that is

acceptable to the State. A full description of the items required for Project closeout is included as an attachment to the Funding Agreement.

After Project completion, Funding Recipient will need to submit its first post-construction performance report in accordance with AB 156 to the UFRR Program (http://www.water.ca.gov/floodmgmt/docs/AB156_factsheet_5-29-08_final.pdf), which will include a summary of the operations for the Project. All subsequent submittals will not need to be submitted to the UFRR Program, but submitted in accordance with AB 156.

B.3.3 Safety Plan

The law requires many Applicants that enter into a Funding Agreement, as well as benefited cities and counties, to agree to prepare safety plans for their facilities (California Water Code Section 9650 [enacted by Assembly Bill 5 (AB5) (Wolk), 2007 California Stat. 366 (to be codified at California Water Code Section 9121 [b]) in 2007]). All Funding Recipients, including those not subject to the new law, will be required as a condition of entering into an Agreement with the State to provide a safety plan acceptable to the State before the completion of their Projects. Funding Recipients will also need to agree to update the plan annually. The plan must cover the entire area affected by the Project. Also, Applicants and Funding Recipients may view the following reference materials at the website of the California Emergency Management Agency (currently http://www.oes.ca.gov/):
"Emergency Planning Guidance for Local Government," "Volume I, The Emergency Planning Guide," "Volume II, Model City Plan," and "Volume III, Model County Plan";
"Flood Preparedness Guide for Levee Maintaining Agencies";
"Guidelines for Coordinating Flood Emergency Operations"; and
"State of California Emergency Plan."

B.3.4 Final Statement of Costs

The Funding Recipient will be required to provide a final Statement of Costs that details funds spent. This statement will include an analysis of the actual objectives provided by the Project and describe the funding adjustments necessary (if needed) to account for the cost share discrepancies driven by the difference between actual and estimated objectives. This final Statement of Costs will also set forth a plan for final disbursement or collection.

B.4 Flood Risk Notification of Landowners

If requested to do so by the State, the Funding Recipient will need to provide a written notice to landowners and other affected interests of the extent of protection afforded by the Project not less than once each year. The contents of this written notice will be determined by the State and may include the types of statements specified in AB5. Funding Recipients not subject to the new law will nonetheless be required, as a condition of entering into an Agreement with the State, to abide by those statutory requirements and advise landowners of flood risks.

B.5 Indemnities and Hold Harmless

As part of the Funding Agreement, Funding Recipient shall indemnify and hold harmless the State, its officers, agents, and employees free and harmless from any and all liability from any claims and damages arising from the planning, design, construction, repair, replacement or rehabilitation, maintenance, and operation of the Project and any breach of the Funding Agreement. Funding Recipient shall require its construction contractors and construction subcontractors to name the State, its officers, agents, and employees as additional insured's on their liability insurance for activities undertaken pursuant to the Funding Agreement.

APPENDIX C: LIST OF REFERENCE MATERIALS

C.1 General References

State of California, Proposition 1E, Section 5096.805 (currently available at http://www.water.ca.gov/floodsafe/fessro/docs/flood3_prop1e.pdf).

California Senate Bill 5 of 2007 (currently available at http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sb_5_bill_20071010_chaptered.html).

Assembly Bill 5 (currently located at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200720080AB5).

Assembly Bill 156 (currently located at http://www.water.ca.gov/floodmgmt/docs/AB156_factsheet_5-29-08_final.pdf).

(OMB) Circular A-87 (currently available at http://www.whitehouse.gov/omb/circulars_a087_2004).

2012 Central Valley Flood Protection Plan (currently available at http://www.cvfpb.ca.gov/CVFPP/).

California Government Code Section 7267.1 (currently available at http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=07001-08000&file=7260-7277).

California Labor Code (currently available at http://www.leginfo.ca.gov/.html/lab_table_of_contents.html).

California Water Code (currently available at http://www.leginfo.ca.gov/.html/wat_table_of_contents.html).

Guidelines for Establishing Local Agency Cost-Sharing Formulas for Flood Programs and Projects (currently available at http://www.water.ca.gov/floodsafe/).

Map showing the boundaries of the primary and secondary zones of the Delta, (currently available at http://www.delta.ca.gov/plan_map.htm.).

SCRB cost allocation procedure, found in the State's Economics Guidebook, (currently available at http://www.water.ca.gov/legislation/docs/swp_cost_allocation.pdf).

HEC-FDA (currently available at http://www.hec.usace.army.mil/software/hec-fda/).

HAZUS-Multiple Hazard and Mitigation BCA Toolkit (currently available at http://www.fema.gov/hazus).

C.2 General Analytical Tools

EC 1165-2-216 (Appendix F thereof). USACE Engineering Circular Guidance on Hydraulic Impact Analysis (currently found at http://www.publications.usace.army.mil/Portals/76/Publications/EngineerCirculars/EC_1165-2-216.pdf).

PR-71. Documentation and Demonstration of a Process for Risk Analysis of Proposed Modifications to the Sacramento River Flood Control Project (SRFCP) Levees, June 2009 (currently available at http://www.hec.usace.army.mil/publications/ProjectReports/PR-71.pdf).

Urban Level of Flood Protection Criteria (2013) (currently available at http://www.water.ca.gov/floodsafe/urbancriteria/ULOP_Criteria_Nov2013.pdf).

Urban Levee Design Criteria (currently available at http://www.water.ca.gov/floodsafe/leveedesign/ULDC_May2012.pdf).

Urban Flood Risk Reduction Plan SCRB Spreadsheet Analysis (currently available at http://www.water.ca.gov/floodsafe/docs/EIP_PSP_Attachment_2-B-C_analysis_Blank.xls).

C.3 Materials Relating To Economic Feasibility

United States Water Resources Council, *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies* (1983) (currently available at http://planning.usace.army.mil/toolbox/library/Guidance/Principles_Guidelines.pdf).

The Hamilton City Flood Damage Reduction and Ecosystem Restoration Feasibility Study (currently available at http://www.water.ca.gov/economics/downloads/Ham%20City/appendix_e_economics.pdf).

Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies prepared by the United States Water Resources Council, 1983 (currently available at http://planning.usace.army.mil/toolbox/library/Guidance/Principles_Guidelines.pdf).

U.S. Army Corps of Engineers Planning Guidance Notebook ER 1105-2-100 (April 2000) (currently available at http://planning.usace.army.mil/toolbox/library/ERs/entire.pdf).

The USACE's National Economic Development Manuals (currently available at http://corpsnedmanuals.us).

State economics guidelines, economic guidebook and example analyses (currently available at http://www.water.ca.gov/economics/guidance.cfm).

Statement of Economic Interests (Fair Political Practices Commission Form 700), (currently available at http://www.fppc.ca.gov/forms/700-12-13/Form700-12-13.pdf).

C.4 Materials Relating to Emergency Planning

California Emergency Management Agency, "The Emergency Planning Guidance for Local Government," "Volume I–The Emergency Planning Guide," "Volume II, Model City Plan" and "Volume III, Model County Plan," "Flood Preparedness Guide for Levee Maintaining Agencies," "Guidelines for Coordinating Flood Emergency Operations" and "State of California

Emergency Plan" (currently available at http://www.calema.ca.gov/PlanningandPreparedness/Pages/Documents%20and%20Publications.aspx).

C. 5 Materials Relating to Environmental Requirements

Conservation Framework (currently available at http://www.cvfpb.ca.gov/CVFPP/).

Draft Statewide Framework for Regional Advance Mitigation Planning (currently available by request at: https://rampcalifornia.water.ca.gov/web/guest/wiki/-/wiki/Main/StatewideFramework).