



FEMA

November 13, 2023

Nancy Ward, Director
Governor's Authorized Representative
California Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655

Reference: Application Approval, HMGP DR-4407-506-75R
Town of Los Gatos, California
Vegetation Management Risk Reduction Mitigation Project, Phase 2
FIPS Code: 085-44112, Supplement 259

Dear Nancy Ward:

We approve and issue Hazard Mitigation Grant Program (HMGP) funds for the Town of Los Gatos, HMGP DR-4407-506-75R, Vegetation Management Risk Reduction Mitigation Project, Phase 2.

The total project cost for Phase 2 is \$2,121,793.00. As shown in the enclosed Obligation Report - Supplement 259, we are obligating \$1,591,344.75 for the 75 percent Federal share; the 25 percent non-Federal share is \$530,448.25. We are obligating \$35,974.97 for the 100 percent Federal share of Subrecipient Management Costs (SRMC). These funds are available in SmartLink for immediate and eligible disbursements. The following is a summary of the approved funding:

| Approvals: | Federal Share: | Non-Federal Share: | Total Project Cost: |
|----------------------------|----------------|--------------------|---------------------|
| Phase 1, Supplement 61 | \$64,188.00 | \$21,396.00 | \$85,584.00 |
| Phase 2, Supplement 259 | \$1,591,344.75 | \$530,448.25 | \$2,121,793.00 |
| Management Cost | \$35,974.97 | \$0.00 | \$35,974.97 |

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

- 1. Scope of Work (SOW)** – The project is to perform hazardous fuels reduction in Santa Clara County, California. Work will occur in five project areas: 1) Heintz Open Space, 2) La Rinconada Park, 3) Novitiate Park, 4) Santa Rosa Park, and 5) Worcester Park.
- 2. Project Completion Date** – The work schedule included in the project application indicates that Phase 2 will take 18 months to complete; therefore, the project completion date is May 13, 2025. Please inform the sub-recipient that work completed after this date is not eligible for federal funding, and that federal funds may be de-obligated for work completed outside the completion date when there is no approved time extension.

3. **Project Closeout** – Within 120 days of project completion, all project funds must be liquidated and final closeout documentation for the project must be submitted to FEMA. Please note the project must comply with Code of Federal Regulations Title 2, Part 200 reporting requirements at the time of closeout.
4. **Record of Environmental Considerations (REC)** – FEMA has determined that the Proposed Action is covered by the Region 9 Programmatic Environmental Assessment (PEA) under Section 2.5, Vegetation Management. This category covers the removal of vegetation and hazardous fuels, therefore, the Proposed Action is consistent with these PEA categories. A list of Typical BMPs is attached. Compliance with the BMPs appropriate for this scope of work is a condition of funding. Failure to comply with these conditions may jeopardize federal assistance including funding. Please reference the enclosed REC for further information.
5. **Extraordinary Circumstances** – This project approval has requested "extraordinary circumstance" provision pursuant to 44 CFR 201.6(a)(3) for the Town of Los Gatos to complete the local hazard mitigation plan. We approve the request for "extraordinary circumstances" to complete the hazard mitigation plan. The hazard mitigation plan must be completed within 12 months of the award date. If the plan is not approved within this timeframe, the project grant will be terminated, and any costs incurred after notice of the grant's termination will not be reimbursed.
6. **Standard Conditions** – This project approval is subject to the enclosed *Standard Mitigation Grant Program (HMGP) Conditions*, amended August 2018. Please note that federal funds may be de-obligated for work that does not comply with these conditions.

If you have any questions or need further assistance please contact Aaron Lim, Hazard Mitigation Assistance Specialist, by email at aaron.lim@fema.dhs.gov, or phone (510) 627-7036.

Sincerely,

Kathryn Lipiecki
Director, Mitigation Division
FEMA Region 9

Enclosures (5):

Obligation Report - Supplement 259
Project Management Report
Record of Environmental Considerations (REC)
Best Management Practices (BMP)
Standard Mitigation Grant (HMGP) Conditions

cc:

Ron Miller, Acting State Hazard Mitigation Officer, California Governor's Office of Emergency Services
Robyn Fennig, Co-Acting California State Hazard Mitigation Officer, California Governor's Office of Emergency Services
Robert McCord, Chief, Hazard Mitigation Assistance Branch, FEMA Region 9

| Obligation | | | | | | | |
|-----------------------------------|-----------------|--------------|----------------------|---|-----------------|-------|-----------|
| Disaster No | FEMA Project No | Amendment No | State Application ID | Action No | Supplemental No | State | Recipient |
| 4407 | 75 -R | 2 | 506 | 4 | 259 | CA | Statewide |
| Subrecipient: Los Gatos | | | | Project Title : Los Gatos, Vegetation Management Risk Reduction Project | | | |
| Subrecipient FIPS Code: 085-44112 | | | | | | | |

| Total Amount Previously Allocated | Total Amount Previously Obligated | Total Amount Pending Obligation | Total Amount Available for New Obligation | | | |
|-----------------------------------|-------------------------------------|---------------------------------|---|--------------|------|--|
| \$1,655,532.75 | \$1,655,532.75 | \$0.00 | \$0.00 | | | |
| Project Amount | Subrecipient Management Cost Amount | Total Obligation | IFMIS Date | IFMIS Status | FY | |
| \$1,591,344.75 | \$35,974.97 | \$1,627,319.72 | 11/09/2023 | Accept | 2024 | |

Comments

Date: 11/09/2023 User Id: RHIRST

Comment: Approve funding of Federal Share \$1,591,344.75 and SRMC \$35,974.97, totaling \$1,627,319.72 for DR-4407-506-75R-Town of Los Gatos-Vegetation Management Mitigation Project (Phase 2).

Authorization

Preparer Name: REILLY HIRST Preparation Date: 11/09/2023

HMO Authorization Name: AARON LIM HMO Authorization Date: 11/09/2023

HAZARD MITIGATION GRANT PROGRAM

Project Management Report

| | | | | | |
|--------------------|------------------------|---------------------|------------|-----------|------------------|
| Disaster Number | FEMA Project Number | Amendment Number | App ID | State | Recipient |
| 4407 | 75 - R | 2 | 506 | CA | Statewide |

Subrecipient: Los Gatos

FIPS Code: 085-44112

Project Title : Los Gatos, Vegetation Management Risk Reduction Project

Mitigation Project Description**Amendment Status :** Approved**Approval Status:** Approved

Project Title : Los Gatos, Vegetation Management Risk Reduction Project

Recipient : Statewide**Subrecipient :** Los Gatos

Recipient County Name : Santa Clara

Subrecipient County Name : Santa Clara

Recipient County Code : 85

Subrecipient County Code : 85

Recipient Place Name : Los Gatos

Subrecipient Place Name : Los Gatos

Recipient Place Code : 0

Subrecipient Place Code : 44112

Project Closeout Date : 00/00/0000

Work Schedule Status

| <u>Amend #</u> | <u>Description</u> | <u>Time Frame</u> | <u>Due Date</u> | <u>Revised Date</u> | <u>Completion Date</u> |
|----------------|-----------------------------------|-------------------|-----------------|---------------------|------------------------|
| 2 | Kick-off | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 0 | Kick-off | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 1 | Kick-off | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 1 | Ecological Assessment | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 2 | Ecological Assessment | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 0 | Ecological Assessment | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 1 | Request for Proposals | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 2 | Request for Proposals | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 0 | Request for Proposals | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 1 | Open Bids and Award Contract | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 2 | Open Bids and Award Contract | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 0 | Open Bids and Award Contract | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 1 | Construction - Vegetation Removal | 5 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 2 | Construction - Vegetation Removal | 5 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 0 | Construction - Vegetation Removal | 5 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 1 | Project Close-out | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 0 | Project Close-out | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 2 | Project Close-out | 2 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 0 | Grant Closeout | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 1 | Grant Closeout | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |
| 2 | Grant Closeout | 3 Months | 00/00/0000 | 00/00/0000 | 00/00/0000 |

Approved Amounts

| Total Approved Net Eligible | Federal Share Percent | Total Approved Federal Share Amount | Non-Federal Share Percent | Total Approved Non-Fed Share Amount |
|--------------------------------|--------------------------|--|------------------------------|--|
| \$2,207,377.00 | 75.000000000 | \$1,655,532.75 | 25.00000000 | \$551,844.25 |

HAZARD MITIGATION GRANT PROGRAM

Project Management Report

| | | | | | |
|--------------------|------------------------|---------------------|------------|-----------|------------------|
| Disaster Number | FEMA Project Number | Amendment Number | App ID | State | Recipient |
| 4407 | 75 - R | 2 | 506 | CA | Statewide |

Subrecipient: Los Gatos

FIPS Code: 085-44112

Project Title : Los Gatos, Vegetation Management Risk Reduction Project

Allocations

| Allocation Number | IFMIS Status | IFMIS Date | Submission Date | FY | ES/DFSC Support Req ID | ES/DFSC Amend Nr | Proj Alloc Amount Fed Share | Subrecipient Management Cost | Total Alloc Amount |
|----------------------|-----------------|---------------|--------------------|------|------------------------------|---------------------|--------------------------------|---------------------------------|-----------------------|
| 20 | A | 10/23/2020 | 10/23/2020 | 2021 | 3271424 | 0 | \$64,188.00 | \$0.00 | \$8,380,446.00 |
| 56 | A | 12/29/2021 | 12/29/2021 | 2022 | 4925242 | 4 | \$0.00 | \$2,289.00 | \$1,004,530.50 |
| 131 | A | 11/07/2023 | 11/06/2023 | 2024 | 18934766 | | \$1,591,344.75 | \$35,974.97 | \$12,501,736.94 |
| Total | | | | | | | \$1,655,532.75 | \$38,263.97 | \$21,886,713.44 |

Obligations

| Action Nr | IFMIS Status | IFMIS Date | Submission Date | FY | SFS Support Req ID | SFS Amend Number | Suppl Nr | Project Obligated Amt - Fed Share | Subrecipient Management Cost | Total Obligated Amount |
|--------------|-----------------|---------------|--------------------|------|--------------------------|------------------------|-------------|--------------------------------------|---------------------------------|---------------------------|
| 1 | A | 10/23/202 | 10/23/2020 | 2021 | 3273862 | 0 | 61 | \$64,188.00 | \$0.00 | \$64,188.00 |
| 2 | A | 01/13/202 | 01/13/2022 | 2022 | 7406490 | 1 | 147 | \$0.00 | \$2,289.00 | \$2,289.00 |
| 3 | R | 11/07/202 | 11/07/2023 | 2024 | 18936048 | 2 | 257 | \$1,591,344.75 | \$35,974.97 | \$1,627,319.72 |
| 4 | A | 11/09/202 | 11/09/2023 | 2024 | 18938118 | 2 | 259 | \$1,591,344.75 | \$35,974.97 | \$1,627,319.72 |
| Total | | | | | | | | \$3,246,877.50 | \$74,238.94 | \$3,321,116.44 |

Environmental Conditions Required Monitoring

| Law | Entered By | Monitoring Required | Monitoring Completed Date | Monitoring Completed By |
|------------------------------|---------------------------|-------------------------------------|------------------------------|----------------------------|
| Endangered Species Act (ESA) | Allison N. Miller Simonds | <input checked="" type="checkbox"/> | 00/00/0000 | |

Conditions Required (4000) The Subapplicant is responsible for implementing the General Avoidance and Minimization Measures (GEN AMM) and species-specific measures listed in the Biological Opinion and included as an attachment to this REC.

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4407-0075-CA (4407-506-75) (2)

Title: Town of Los Gatos Vegetation Management (Phase 2)

NEPA DETERMINATION

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

Comment The Town of Los Gatos proposes to perform hazardous fuels reduction in Santa Clara County, California. Work would occur in five project areas: 1) Heintz Open Space, latitude/longitude: 37.230089, -121.928621, 2) La Rinconada Park, latitude/longitude: 37.2573057, -121.9803139, 3) Novitiate Park, latitude/longitude: 37.214091, -121.986386, 4) Santa Rosa Park, latitude/longitude: 37.227097, -121.919619, and 5) Worcester Park, latitude/longitude: 37.221746, -121.966959. The staging area (37.217793, -121.913229) is on the north side of Shannon Road, immediately west of the Hicks Road intersection.

The project would occur through a combination of hand tools, mechanized equipment, herbicides, and prescribed grazing and would treat approximately 193.9 acres. Each of the five project areas is accessible by existing access roads.

The Proposed Action is not likely to result in potential direct impacts that would adversely affect the natural values and function of floodplains, nor is it likely to increase the risk of flood loss. The Proposed Action would not impact wetlands.

FEMA has determined that the Proposed Action is covered by the Region 9 Programmatic Environmental Assessment (PEA) under Section 2.5, Vegetation Management. This category covers the removal of vegetation and hazardous fuels, therefore, the Proposed Action is consistent with these PEA categories. A list of Typical BMPs is attached. Compliance with the BMPs appropriate for this scope of work is a condition of funding. - eargirof - 09/19/2023 22:17:31 GMT

EXTRAORDINARY

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

ENVIRONMENTAL LAW / EXECUTIVE ORDER

| Environmental Law/ Executive Order | Status | Description | Comment |
|---------------------------------------|-----------|--|--|
| Clean Air Act (CAA) | Completed | Project will not result in permanent air emissions - Review concluded | The project is in Santa Clara County, which is not in attainment for the following criteria pollutants: PM2.5 and 8-hour Ozone (https://www3.epa.gov/airquality/greenbook/anc1.html#CA). Based on the scope of work, the potential emissions from project activities would be below de minimis thresholds for the General Conformity Rule. Therefore, the project is exempt from a conformity determination. - eargirof - 09/19/2023 21:41:54 GMT |
| Coastal Barrier Resources Act (CBRA) | Completed | Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded | |
| Clean Water Act (CWA) | Completed | Project would not affect any water of the U.S. - Review concluded | Based on the National Wetlands Inventory Mapper, two out of the five project areas include riverine habitats. The La Rinconada Park includes 12.03 acres of an unnamed |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4407-0075-CA (4407-506-75) (2)

Title: Town of Los Gatos Vegetation Management (Phase 2)

| Environmental Law/ Executive Order | Status | Description | Comment |
|---|-----------|--|--|
| | | | intermittent streambed that is seasonally flooded. The Santa Rosa Park includes 31.44 acres of an unnamed intermittent streambed that is seasonally flooded. Proposed project activities would not occur within or negatively impact nearby surface waters; therefore, coordination with the U.S. Army Corps of Engineers (USACE) is not required for the project. - eargirof - 09/19/2023 21:41:17 GMT |
| Coastal Zone Management Act (CZMA) | Completed | Project is not located in a coastal zone area and does not affect a coastal zone area - Review concluded | |
| Executive Order 11988 - Floodplains | Completed | Located in floodplain or effects on floodplain/flood levels | The project areas are primarily within shaded Zone X, areas with a 0.2 percent annual chance flood, and Zone D, areas of undetermined flood hazard. There are areas of Zone AE, special flood hazard areas subject to the 1 percent annual chance flood, including some areas of associated regulatory floodways, located in La Rinconada Park. These zones are shown on FEMA Flood Insurance Rate Map (FIRM) panels 06085C0238J dated February 19, 2014, 06085C0381H dated May 18, 2009, 06085C0377H dated May 18, 2009, and 06085C0380H dated May 18, 2009. The Proposed Action is not likely to result in potential direct impacts that would adversely affect the natural values and function of floodplains, nor is it likely to increase the risk of flood loss. An Initial Public Notice was published on 12/9/2021. Per 44 CFR Part 9.5(d)(4), the 8-step Process was completed, and the determination was the project is the only practicable alternative. A Final Public Notice was published on July 19, 2023. - eargirof - 09/19/2023 22:01:29 GMT |
| | Completed | No adverse effect on floodplain and not adversely affected by the floodplain - Review concluded | |
| Executive Order 11990 - Wetlands | Completed | No effects on wetlands and project outside wetlands - Review concluded | Based on a review of the USFWS National Wetlands Inventory database (reviewed January 24, 2023), project activities are not within nor would they affect wetland resources. The 8-Step process for wetlands is not required. - eargirof - 09/19/2023 22:03:54 GMT |
| Executive Order 12898 - Environmental Justice for Low Income and Minority Populations | Completed | No Low income or minority population in, near or affected by the project - Review concluded | According to the Environmental Protection Agency's Environmental Justice Screening and Mapping Tool (Version 2020), no low income and minority populations are within 0.5 mile of the project sites. This project would not result in |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4407-0075-CA (4407-506-75) (2)

Title: Town of Los Gatos Vegetation Management (Phase 2)

| Environmental Law/ Executive Order | Status | Description | Comment |
|---------------------------------------|-----------|--|---|
| | | | disproportionately high and adverse impacts on low income or minority populations. - eargirof - 09/19/2023 22:04:18 GMT |
| Endangered Species Act (ESA) | Completed | Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action | The project was reviewed by Murray Wade, a qualified biologist with CDM Smith, under the Programmatic Biological Opinion from the Sacramento Fish and Wildlife Office Jurisdiction in California. The project may affect, but is not likely to adversely affect the Foothill Yellow-legged Frog (FYLF), the California red-legged frog (CRLF) and the California tiger salamander (CTS). The project area does not overlap any designated critical habitat. The potential for FYLF to occur within the project area is very low because no known breeding habitats are present. CRLF has not been recently detected within the project area; however, the project area contains suitable nonbreeding aquatic and upland dispersal habitat. The potential for CTS to occur within the project area is very low because no known breeding habitats are present in the immediate vicinity and long-distance movement to the project area from surrounding occupied sites is hindered by residential development and roads. Impacts to FYLF could occur from noise and vibration from fuel reduction activities that could disrupt normal foraging and sheltering behavior. FYLFs could be injured or killed from being crushed by equipment or worker foot traffic, collisions with project-related vehicles and equipment on access roads and staging areas, or exposure to herbicides. CRLFs occurring within the project area during implementation could be displaced, harassed, injured, or killed during activities involving work in suitable CRLF habitat. If CTSs were to occur within the AA, noise and vibration from fuel reduction activities could disrupt normal foraging and sheltering behavior, and individuals could be injured or killed from being crushed by equipment or worker foot traffic or exposure to herbicides. Implementation of general and species-specific avoidance and minimization measures and species-specific conservation measures would minimize potential adverse effects. No impacts on any other federally listed species would occur. FEMA received concurrence from USFWS on July 17, 2023. - eargirof - 09/19/2023 21:32:29 GMT |
| | Completed | Likely to adversely affect species or designated critical habitat | |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4407-0075-CA (4407-506-75) (2)

Title: Town of Los Gatos Vegetation Management (Phase 2)

| Environmental Law/ Executive Order | Status | Description | Comment |
|--|-----------|--|--|
| | Completed | Formal consultation concluded. (Biological Assessment and Biological Opinion attached) - Review concluded | |
| Farmland Protection Policy Act (FPPA) | Completed | Project does not affect designated prime or unique farmland - Review concluded | According to the California important farmland mapper (https://maps.conservation.ca.gov/DLRP/CIFF/), the project areas are in Los Gatos and are designated urban and built up land, or land designated as other. The project would not result in the conversion of, or other adverse impacts on, prime or unique farmland or farmland of statewide or local importance. - eargirof - 09/19/2023 21:45:34 GMT |
| Fish and Wildlife Coordination Act (FWCA) | Completed | Project does not affect, control, or modify a waterway/body of water - Review concluded | |
| Migratory Bird Treaty Act (MBTA) | Completed | Project located within a flyway zone | The project area is within the Pacific Flyway and includes the removal of vegetation that may serve as nesting habitat for migratory birds. Vegetation removal would comprise mostly invasive species and ladder fuels in native trees and bushes. The staging area would be on paved ground and no vegetation removal would occur there. Vegetation management activities would be short-term and would result in open spaces with vegetation remaining to provide nesting habitat for migratory bird species. The Subapplicant would comply with state and federal laws pertaining to migratory birds and has stated that, if vegetation removal activities occur in the bird breeding season, a qualified biologist will be retained to conduct nesting bird surveys prior to the start of work. Therefore, potential effects on migratory birds would be minimized. - eargirof - 09/19/2023 21:47:59 GMT |
| | Completed | Project does not have potential to take migratory birds - Review concluded | |
| Magnuson-Stevens Fishery Conservation and Management Act (MSA) | Completed | Project located in or near Essential Fish Habitat | Based on a review of the NMFS Species List Tool and the NMFS essential fish habitat (EFH) mapper completed on September 14, 2021, the project area is within mapped boundaries of EFH for Chinook salmon (<i>Oncorhynchus tshawytscha</i>) and Coho salmon (<i>Oncorhynchus kisutch</i>). Because there would be no in-water work and no impacts on aquatic resources as a result of this project, there would be no impact on EFH. - eargirof - 09/19/2023 21:59:46 GMT |

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4407-0075-CA (4407-506-75) (2)

Title: Town of Los Gatos Vegetation Management (Phase 2)

Environmental Law/
Executive Order

Status

Description

Comment

Completed

Project does not adversely affect Essential Fish Habitat - Review concluded

National Historic Preservation Act (NHPA)

Completed

Applicable executed Programmatic Agreement (enter date in comments).

The Undertaking was reviewed by archaeologist Hannah Ballard with Pacific Legacy, Inc., who meets the applicable Secretary of the Interior's Professional Qualification in accordance with Stipulation I.B.1.a of the October 2019 Programmatic Agreement (Programmatic Agreement) among the Federal Emergency Management Agency, the California State Historic Preservation Office (SHPO), and the California Governor's Office of Emergency Services. FEMA conducted a pedestrian archaeological survey and evaluated sites for NRHP eligibility. All archeological survey findings lacked meaningful data potential and are considered not eligible for listing in the NRHP. By letter to the SHPO dated July 27, 2022, FEMA determined that the project would have No Historic Properties Affected. By letter dated September 21, 2022, the SHPO indicated no objection to FEMA's determination. - eargirof - 09/19/2023 21:30:38 GMT

Completed

Historic Buildings and Structures

Completed

No properties in the project area are 50 years or older or listed on the National Register - Review concluded

Completed

Archeological Resources

Completed

Project affects undisturbed ground

Completed

Project area has potential for presence of archeological resources

Completed

Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded

Wild and Scenic Rivers Act (WSR)

Completed

Project is not along and does not affect Wild and Scenic River - Review concluded

The National Wild and Scenic Rivers system website (<https://www.rivers.gov/arizona.php>) does not identify any federally designated wild and scenic rivers near the project area. The closest wild and scenic river segment is the Big Sur Wild and Scenic River, which is more than 64 miles south of the project area. Based on the distance to the project,

FEDERAL EMERGENCY MANAGEMENT AGENCY
RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4407-0075-CA (4407-506-75) (2)
Title: Town of Los Gatos Vegetation Management (Phase 2)

| Environmental Law/ Executive Order | Status | Description | Comment |
|---------------------------------------|--------|-------------|--|
| | | | implementation of this project would have no direct or adverse impacts on Wild and Scenic Rivers. - eargirof - 09/19/2023 22:00:02 GMT |

CONDITIONS

Special Conditions required on implementation of Projects:

The Subapplicant is responsible for complying with all applicable subparts of the Clean Air Act. Failure to comply with this condition may jeopardize federal assistance, including funding. Any change to the approved scope of work will require re-evaluation for compliance with the Clean Air Act.

Source of condition: Clean Air Act (CAA) Monitoring Required: No

The Subapplicant is responsible for implementing the General Avoidance and Minimization Measures (GEN AMM) and species-specific measures listed in the Biological Opinion and included as an attachment to this REC.

Source of condition: Endangered Species Act (ESA) Monitoring Required: Yes

The Subapplicant must conduct cultural resources awareness training in advance of project ground-disturbing activities.

Source of condition: National Historic Preservation Act (NHPA) Monitoring Required: No

The Subapplicant is responsible for implementing BMPs appropriate for this scope of work. A list of Typical BMPs from the Region 9 Programmatic Environmental Assessment is attached. Any changes to this scope of work must be resubmitted to FEMA for review prior to initiation of any work. Noncompliance with this requirement may jeopardize federal funding.

Source of condition: NEPA Determination Monitoring Required: No

Standard Conditions:

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

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

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

Appendix C
List of Typical Best Management Practices

During construction, Best Management Practices (BMPs) are normally employed to reduce potential adverse effects to resource areas from construction and operation of proposed projects. BMPs are outlined below for resource areas where impact may occur due to project activities. BMPs for resource areas like socioeconomics and public safety, land use and planning and visual resources are not outlined, as construction and operation measures to protect those resource areas vary by jurisdiction and state/local regulations. Further, overlap between resource areas BMPs exists. This list represents sample general construction BMPs; project specific BMPs should be implemented on a case by case basis. The table below outlines general construction BMPs.

Table 1 – General Construction BMPs

| | |
|--------------------------------|---|
| General Principles | <ul style="list-style-type: none"> • Fit grading to the surrounding terrain. • Time grading operations to minimize soil exposure. • Retain existing vegetation whenever feasible. • Vegetate and mulch or otherwise stabilize disturbed areas. • Direct runoff away from disturbed areas. • Minimize the length and steepness of slopes. • Keep runoff velocities low. • Prepare drainage ways and outlets to handle concentrated runoff until permanent drainage structures are constructed. • Trap sediment on site. • Inspect and maintain control measures frequently. • Do not dispose of plant material in a creek or drainage facility or leave it in a roadway where it can clog storm drain inlets. • Avoid disposal of plant material in trash dumpsters or mixing it with other wastes. • Compost plant material or take it to a landfill or other facility that composts yard waste (check with the local planning or building department for more information). |
| Structural Control Measures | <ul style="list-style-type: none"> • Where possible maintain runoff water within its natural course and direction of flow. • Design and maintain access roads to prevent ponding and damage from water flow. • Limit cut and fill slopes to an inclination of 2:1 or flatter, and include benching to reduce slope length on longer slopes. • Direct concentrated flow to stabilized channels and drains. • Roughen slope surfaces to slow down flow velocities and enhance water infiltration, which in turn will enhance vegetation establishment • Divert stormwater away from denuded areas and use properly installed temporary berms, earth dikes, silt fences, sediment traps, inlet protection, and sediment basins to limit the discharge of sediment and pollutants from the site. |
| Stormwater Management Controls | <ul style="list-style-type: none"> • Wherever possible, stormwater runoff from undeveloped areas should be kept separate from runoff from developed areas, and should be retained in natural conveyances or routed through properly lined drainage conveyances. • Discharge locations should be provided with appropriate energy dissipation to prevent scour. |

Geology and Soils

The following BMPs for geology and soils were developed using local and state guidelines. The BMPs are geared towards preventing soil erosion. BMPs for geological hazards must be developed in accordance with federal, state and local building codes and project area specific geological conditions.

1. Plan the development to fit the topography, soils, drainage pattern and natural vegetation of the site.
2. Delineate clearing limits, easements, setbacks, sensitive or critical areas, trees, drainage courses, and buffer zones to prevent excessive or unnecessary disturbances and exposure.
3. Phase grading operations to reduce disturbed areas and time of exposure.
4. Avoid excavation and grading during wet weather.
5. Use berms and drainage ditches to divert runoff around exposed areas. Place diversion ditches across the top of cut slopes.
6. Plant vegetation on exposed slopes. Where replanting is not feasible, use erosion control blankets (e.g., jute or straw matting, glass fiber or excelsior matting, mulch netting).
7. Consider slope terracing with cross drains to increase soil stability.
8. Cover stockpiled soil and landscaping materials with secured plastic sheeting and divert runoff around them.
9. As a back-up measure, protect drainage courses, creeks, or catch basins with fiber rolls, silt fences, sand/gravel bags and/or temporary drainage swales.
10. Once grading is completed, stabilize the disturbed areas using permanent vegetation as soon as possible. Use temporary erosion controls until vegetation is established.
11. Conduct routine inspections of erosion control measures especially before and immediately after rainstorms, and repair if necessary.

Air Quality and Greenhouse Gas Emissions

The following BMPs are extracted from state sources and they represent general construction BMPs for minimizing air quality and greenhouse gas emissions from project construction. The following BMPs can also be implemented to reduce project impacts on Climate Change.

1. All exposed unpaved surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes.
7. Clear signage shall be provided for construction workers at all access points.

8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
9. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
10. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
11. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
12. Minimizing the idling time of diesel powered construction equipment to two minutes.
13. Use low Volatile Organic Compound (VOC) (i.e., ROG) coatings beyond the local requirements.
14. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NO_x and PM.
15. Monitor dust-generating activities and implement appropriate measures for maximum dust control.

Water Resources

The following BMPs are extracted from sources such as the US Fish and Wildlife Service (USFWS) and Regional Water Quality Boards (RWQCB). These BMPs could be implemented when working near waters of the US or wetlands.

1. No work within 50 feet of a wetland or waterbody.
2. For work between 50 and 200 feet of a wetland or waterbody:
 - Herbicides would be restricted to glyphosate-based herbicides that are approved by the EPA for use around water (e.g., Rodeo).
 - Hand tools (chainsaws, brush cutters, and other hand tools) would be used to create a gradation of vegetation density by removing approximately 50 percent of the vegetation farthest from wetlands and perennial waterbodies, and 33 percent of the vegetation at closer distances to wetlands and perennial waterbodies.
 - No equipment fueling would occur.
3. Never wash down pavement or surfaces where materials have spilled. Use dry cleanup methods whenever possible.
4. Protect all storm drain inlets using filter fabric cloth or other best management practices to prevent sediments from entering the storm drainage system during construction activities.
5. Keep materials out of the rain — prevent runoff pollution at the source. Schedule clearing or heavy earth moving activities for periods of dry weather. Cover exposed piles of soil, construction materials and wastes with plastic sheeting or temporary roofs. Before it rains, sweep and remove materials from surfaces that drain to storm drains, creeks, or channels.

6. Prior to construction, wetlands located in the project area will be fenced off using ESA fencing. The fencing will be placed 5 feet away from each wetland feature.
7. Appropriate erosion control measures will be used to reduce siltation and runoff of contaminants into wetlands and adjacent, ponds, streams, or riparian woodland/scrub. The contractor will not be allowed to stockpile brush, loose soils, or other debris material on stream banks.
8. Native plant species should be used in erosion control or revegetation seed mix. Any hydroseed mulch used for revegetation must also be certified weed-free. Dry-farmed straw will not be used, and certified weed-free straw will be required where erosion control straw is to be used. Filter fences and mesh will be of material that will not entrap reptiles and amphibians. Erosion-control measures will be placed between water or wetland and the outer edge of the project site.
9. All off-road construction equipment will be cleaned of potential noxious weed sources (mud, vegetation) before entry into the project area. Equipment will be considered free of soil, seeds, and other such debris when a visual inspection does not disclose such material. Disassembly of equipment components or specialized inspection tools is not required.
10. Vehicles and equipment will be parked on pavement, existing roads, or specified staging areas.
11. Trash generated by covered activities should be promptly and properly removed from the site.
12. Equipment storage, fueling, and staging areas will be sited on disturbed areas or on non-sensitive nonnative grassland land cover types, when these sites are available, to minimize risk of direct discharge into riparian areas or other sensitive land cover types.
13. All temporarily disturbed areas, such as staging areas, will be returned to pre-project or ecologically improved conditions as required by responsible agencies.
14. Do not over-apply pesticides or fertilizers and follow manufacturer's instructions for mixing and applying materials.
15. Dispose of all wastes properly. Materials that cannot be reused or recycled must be taken to an appropriate landfill or may require disposal as hazardous waste. Never throw debris into channels, creeks or into wetland areas. Never store or leave debris in the street or near a creek where it may contact runoff.

Biological Resources

These BMPs have been extracted from USFWS and should be applied when working in areas that have been identified to contain Special Status Species and migratory birds.

Special Status Species

1. Construction should generally occur during the dry season (April 15 to October 15).
2. No more than two days prior to the start of ground disturbing activities, focused preconstruction surveys for Special Status Species will be completed by a USFWS-approved biologist in all suitable upland dispersal habitat areas, if Special Status Species have been previously identified in the area. If Special Status Species are found during focused preconstruction surveys, the USFWS will be contacted within one working day, and a suitable protocol shall be approved by USFWS for relocation.

3. Exclusion fencing such as Ertec E-fence™ or an equivalent will be installed around Special Status species habitat prior to any construction during the dry season (April 1 through October 15), when Special Status Species are not actively dispersing or foraging. The fencing will remain in place until all project activities in the vicinity of suitable upland dispersal habitat are completed.
4. To prevent Special Status Species from becoming entangled or trapped in erosion control materials, plastic monofilament netting (erosion control matting) or similar material will not be used for erosion control. Acceptable substitutes include coconut coir matting or tackified hydroseeding compounds.
5. Prior to any construction where Special Status Species have been detected a USFWS-qualified biologist will conduct an education program for construction personnel. At a minimum, the training will include a description of Special Status Species and their habitats; the potential occurrence of these species in the project area; the measures to be implemented to conserve listed species and their habitats as they relate to the work site; and boundaries in which construction may occur. A fact sheet conveying this information will be prepared and distributed to all construction crews and project personnel entering the project area. Upon completion of the program, personnel will sign a form stating that they attended the program and understand all of the avoidance and minimization measures for the Special Status Species.
6. All construction-related trenches and holes in the ground will be covered at the end of each work day to prevent entrapment of Special Status Species. A USFWS-approved biologist will survey the holes at the beginning of each work day to check for trapped Special Status Species. If a Special Status Species is observed, the USFWS-approved biologist will capture and relocate them to a suitable area outside the project area.
7. All organic matter should be removed from nets, traps, boots, vehicle tires and all other surfaces that have come into contact with ponds, wetlands, or potentially contaminated sediments. Items should be washed with a 5 percent bleach solution and rinsed with clean water before leaving each study site. Used cleaning materials (liquids, etc.) should be disposed of safely, and if necessary, taken off site for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.
8. Implement measures to minimize the spread of disease and non-native species based on current Wildlife Agency protocols and other best available science.

Migratory Birds BMPs

Raptors

1. Preconstruction surveys for raptors, other special-status birds, and appropriate nesting habitat will be conducted within 50 feet of the construction area no more than three days prior to ground disturbing activities. If an active nest is found, the state agency (ex. CDFW) will be consulted to determine the appropriate buffer area to be established around the nesting site and the type of buffer to be used, which typically is ESA fencing. If establishment of a buffer is not feasible, the appropriate agency will be contacted for further avoidance and minimization guidelines.
2. A qualified biologist will conduct weekly monitoring during construction, to evaluate the identified nest for potential disturbances associated with construction activities. Construction within the buffer is prohibited until the qualified biologist determines the nest is no longer active.

3. If an active nest is found after construction begins, construction activities in the vicinity of the nest will stop until a qualified biologist has evaluated the nest and established the appropriate buffer around the nest. If establishment of the buffer is not feasible, the appropriate agency will be contacted for further avoidance and minimization guidelines.

Migratory Birds

The measures below would be implemented for construction work during the nesting season (February 15 through August 31).

1. A qualified biologist will conduct preconstruction surveys for nesting migratory birds in the project area no more than three days prior to the start of ground disturbing activities. If preconstruction surveys indicate the presence of any migratory bird nests where activities would directly result in bird injury or death, a buffer zone of 50 feet will be placed around the nest.
2. Buffers will be established around active migratory bird nests where project activities would directly result in bird injury or death. The size of the buffer may vary for different species and will be determined in coordination with the responsible agency. A qualified biologist will delineate the buffer using ESA fencing, pin flags, and/or yellow caution tape.
3. Buffer zones will be maintained around all active nest sites until the young have fledged and are foraging independently. In the event that an active nest is found after the completion of preconstruction surveys and after construction begins, all construction activities within a 50-foot radius will be stopped until a qualified biologist has evaluated the nest and erected the appropriate buffer around it.
4. If an active nest is found in an area after construction begins, construction activities in the vicinity of the nest will stop until a qualified biologist has evaluated the nest and established the appropriate buffer around the nest. If establishment of the buffer is not feasible, the responsible agency will be contacted for further avoidance and minimization guidelines.

Historic Properties

The following BMPs were developed to be used if cultural resources are present. Further BMPs must be developed based on Federal and State guidelines.

Prehistoric or Historic Subsurface Resources: In the event that any prehistoric or historic subsurface cultural resources, as defined by the responsible agency, are discovered during ground disturbing activities all work within 50 feet of the resources should be halted and the project applicant should consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the proponent and the qualified archaeologist would meet to determine the appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

Unanticipated Paleontological Resources: The project proponent shall notify a qualified paleontologist of unanticipated discoveries, made by either the cultural resources monitor or construction personnel and subsequently document the discovery as needed. In the event of an

unanticipated discovery of a breas, true, and/or trace fossil during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find.

Discovery of Human Remains: In the unlikely event of the discovery of human remains, the following BMPs can be implemented as follows:

1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
2. The Coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and
3. If the coroner determines the remains to be Native American:
 - The coroner shall contact the responsible agency within 24 hours.
 - The responsible shall identify the person or persons it believes to be the most likely descended from the deceased Native American.

The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods.

Transportation

The following BMPs were developed based on state and local jurisdictions guidelines. Further BMPs must be developed depending on local jurisdiction traffic control requirements.

1. When possible construction crews would travel outside of peak hour traffic times, therefore minimizing peak traffic times impacts.
2. All vehicles related to project constructions, including contractor vehicles and trucks, would use designated Truck Routes, where those are available.
3. Detour signs shall be used when necessary for vehicles, bicycle and pedestrian ways.
4. All detour signs during construction would be designed to meet the responsible agency standards.
5. A Traffic Control Plan shall be implemented if the project is expected to require road closures.

Noise

The following BMPs for noise have been developed by surveying a variety of local noise guidelines, as there are no state or federal guidelines regarding acceptable noise limits. Noise BMPs will vary based on local noise ordinances and land uses surrounding the project area.

1. Provide advance notification to surrounding land uses disclosing the construction schedule, including the various types of activities that would be occurring throughout the duration of the construction period.
2. Noise-generating construction activities, including truck traffic coming to and from the site for any purpose, shall be limited to the hours of 7:00 a.m. to 7:00 p.m. during

weekdays and 8:00 a.m. to 5:00 p.m. on Saturday and Sunday, or as specified in the Noise Ordinance of the local municipality.

3. All noise-producing project equipment and vehicles using internal combustion engines shall be equipped with mufflers, air-inlet silencers where appropriate, and any other shrouds, shields, or other noise-reducing features in good operating condition that meet or exceed original factory specification. Mobile or fixed "package" equipment shall be equipped with shrouds and noise control features that are readily available for that type of equipment.
4. Contractor shall be responsible for maintaining equipment in best possible working condition.
5. Mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receivers.
6. Locate construction equipment as far as possible from nearby noise-sensitive receptors.
7. The use of noise-producing signals, including horns, whistles, alarms, and bells shall be for safety warning purposes only. No project-related public address or music system shall be audible at any adjacent noise-sensitive receptor.
8. The contractor shall notify adjacent property owner, property managers, and business owners of adjacent parcels of the construction schedule in writing and in advance of the work. The notification shall include the name and phone number of a project representative or site supervisor.
9. The on-site construction supervisor shall have the responsibility and authority to receive and resolve noise complaints. A clear appeal process to the Owner shall be established prior to construction commencement that shall allow for resolution of noise problems that cannot be immediately solved by the site supervisor.

Hazardous Materials

The following BMPs were developed using state guidelines as well as a variety of local jurisdiction guidelines. The BMPs apply to handling of regular hazardous substances as well as the discovery of unknown or undocumented contamination.

1. Vehicles and equipment would be inspected and approved before use to ensure that they will not leak hazardous materials such as oil, hydraulic fluid, or fuel.
2. Fueling would take place in designated staging areas, outside native vegetation or wetlands.
3. The contractor would have emergency cleanup gear for spills (spill containment and absorption materials) and fire-suppression equipment available onsite at all times. The gear and equipment would be inspected before treatment begins.
4. Leaks, drips, and other spills would be cleaned up immediately to avoid soil or groundwater contamination. Cleanup of a spill on soil would include removing the contaminated soil using the emergency spill cleanup gear. Contaminated soil and disposable gear used to clean up a hazardous materials spill would be properly disposed of following State and Federal hazardous material disposal regulations.
5. Major vehicle maintenance and washing would be done offsite.
6. Spent fluids including motor oil and radiator coolant and used vehicle batteries would be collected, stored, and recycled as hazardous waste offsite.
7. Spilled dry materials would be swept up immediately.

Unknown and Undocumented Contamination

If hazardous materials are encountered during construction or accidentally released as a result of construction activities the following procedures shall be implemented:

1. Work shall stop in the vicinity of any discovered contamination or release.
2. The scope and immediacy of the problem shall be identified.
3. Coordination with the responsible agencies shall take place.
4. The necessary investigation and remediation activities shall be conducted to resolve the situation before continuing construction work.

The following measures shall be implemented if unknown or undocumented contamination is discovered during construction to avoid potentially significant impacts to hydrology and water resources in the project area.

Standard Mitigation Grant Program (HMGP) Conditions

FEMA Region IX, August, 2018

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

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

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

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