CEQA Findings of Fact
for the
Gregory Bateson Building Renovation Project

SCH#2019039119

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for the

Gregory Bateson Building Renovation Project

State Clearinghouse No. 2019039119

Prepared for

CALIFORNIA DEPARTMENT OF GENERAL SERVICES
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ACRONYMS AND ABBREVIATIONS

The following definitions apply where the subject words or abbreviations are used in these findings:

CAP	Capitol Area Plan
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act (Public Resources Code Section 21000 et seq.)
DGS	State of California Department of General Services
Director	Director of DGS
Draft EIR	Draft Environmental Impact Report for the proposed Gregory Bateson Building Renovation Project
EIR	Environmental Impact Report
Final EIR	Final Environmental Impact Report for the proposed Gregory Bateson Building Renovation Project, including the Draft EIR
MMRP	Mitigation Monitoring and Reporting Program for the proposed project, provided in Attachment A
NOP	Notice of Preparation of an EIR
Proposed Project	Gregory Bateson Building Renovation Project

1 INTRODUCTION

These findings have been prepared on behalf of the California Department of General Services (DGS) (the lead agency) for the proposed Gregory Bateson Building Renovation Project, for which an environmental impact report (EIR) was prepared pursuant to California Environmental Quality Act (CEQA, California Public Resources Code, Section 21000, et seq.). Approval of a project with significant impacts requires that findings be made by the lead agency pursuant to CEQA, and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) Sections 15043, 15091, and 15093. CEQA Guidelines Section 15092(b) requires that one of the following findings or actions be completed for each significant impact of a project: (1) the significant impact is mitigated to a less-than-significant level pursuant to the mitigation measures identified in the EIR; or (2) if there is a residual significant impact after implementation of mitigation measures identified in the EIR, a Statement of Overriding Consideration is completed, supported by substantial evidence in the administrative record, which includes the documents, materials, and other evidence.

These findings are organized as follows:

Findings for Less-Than-Significant Impacts and those identified as No Impact: This section provides DGS's findings associated with impacts identified as "no impact" or "less than significant" in the Final EIR.

Findings for Significant, Potentially Significant, and Cumulatively Significant Impacts Reduced to Less Than Significant through Mitigation Measures: This section provides DGS's findings with respect to impacts identified as significant or potentially significant that are reduced to less than significant through the adoption of feasible mitigation measures identified in the EIR. These findings are made pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091.

Findings Associated with Project Alternatives: This section sets forth DGS's findings with respect to alternatives to the project that were evaluated in the Final EIR. These findings are made pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091.

Mitigation Monitoring and Reporting Program: This section includes the Mitigation Monitoring and Reporting Program (MMRP) for mitigation measures proposed for adoption. In adopting these findings, DGS hereby commits to implement the MMRP pursuant to CEQA Guidelines Section 15097. The MMRP is included in Attachment A.

Public Resources Code Section 21081 and CEQA Guidelines Section 15091 state that no public agency shall approve or carry out a project for which a certified EIR identifies one or more significant environmental effects of the project, unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings, which must be supported by substantial evidence in the record, include:

(1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

When making the findings required in subdivision (1), the agency shall also adopt a program for reporting on or monitoring the changes required in the project to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

The mitigation measures required of the Gregory Bateson Building Renovation Project are listed in the MMRP (Attachment A). The MMRP is adopted concurrently with these findings, as required by CEQA Section 21081.6(a)(1),

and will be implemented throughout all phases of the project, including design, construction, and operation. DGS will use the MMRP to track compliance with all mitigation measures.

These findings constitute DGS's evidentiary and policy basis for its decision to approve the proposed Gregory Bateson Building Renovation Project in a manner consistent with CEQA. These findings are not merely informational, but constitute a binding set of obligations that will come into effect when DGS approves the project (Public Resources Code Section 21081.6(b)). The mitigation measures identified as feasible and within DGS's authority to implement for the approved project become part of the MMRP. DGS will enforce implementation of the mitigation measures. DGS, upon review of the Final EIR (which includes the Draft EIR) and based on all the information and evidence in the administrative record, hereby makes the findings set forth herein.

2 PROJECT DESCRIPTION

2.1 BACKGROUND AND NEED FOR THE PROJECT

The Gregory Bateson Building, constructed in 1981, was designed by State Architect Sim van der Ryn and Peter Calthorpe. Sim Van der Ryn was appointed to the position of State Architect in 1976 by Governor Jerry Brown, who tasked him with the development of a new Capitol Area Plan. A primary objective of the plan was to reduce the apparent scale of State office buildings and thereby create more user-oriented environments. The plan also set out to create positive examples of State office buildings as models of energy efficiency. Four buildings, the Employment Development Department Annex (Solar – Subterranean Building), Gregory Bateson Building, Paul Bonderson Building, and Warren-Alquist State Energy Building, were completed under the Brown administration Capitol Area Plan. The Gregory Bateson Building was designed and constructed with an emphasis on energy conservation and improved amenities, with many pioneering energy conservation features including solar panels for water heating, large canvas tubes in the large atrium to serve as air shafts for air stratification/movement, thermal storage features, and day-lighting. In 2016, the State Historic Preservation Officer designated the Gregory Bateson Building as a historically significant building due to its innovative design elements, which at the time were considered to be cutting edge for architectural design and energy efficiency.

The 1970s era energy conscious system and building materials of wood and exposed natural concrete have resulted in building maintenance issues. Water intrusion at the roof level caused damage, and repairs to the atrium structural components and skylight system, and building wide roofing and flashing materials were completed in 2002. Notwithstanding the 2002 repairs, the building still has many leaks through the exterior walls and windows. Since at least 2006, the building's exterior has exhibited deterioration that appears to have contributed to extensive leaking. In addition, a 2008 DGS infrastructure study identified a variety fire and life safety, building code, hazardous materials, building security, and other infrastructure deficiencies (DGS 2008). The 2015 DGS facility condition assessments of State office buildings ranked the Gregory Bateson Building fourth in Sacramento and fifth statewide for State-owned, DGS-controlled office buildings requiring renovation or replacement (DGS 2015). The building is included in the DGS Ten-Year Sequencing Plan (DGS 2018) and is necessary to fulfill office space needs in the Sacramento region. The building is in need of a major renovation to ensure the safety and comfort of the tenants, and to avoid falling into an irreversible state of disrepair.

2.2 PROJECT OBJECTIVES

Consistent with, and in furtherance of DGS's mission and the 2018-2019 Five-Year Infrastructure plan, the objectives of the Gregory Bateson Building Renovation Project are to:

- extend the useful life and viability of the building by approximately 50 years;
- improve tenant safety and comfort;
- upgrade all mechanical, electrical, and plumbing infrastructure systems;
- upgrade fire and life safety systems;
- upgrade elevators;
- remove hazardous materials;
- meet current Americans with Disabilities Act (ADA) standards;
- halt the damaging water intrusion;
- establish a new office space plan, allowing greater flexibility and functionality;
- improve energy efficiency, reduce energy use, maintenance costs, and operations costs; and
- complete the renovations in such a manner that retains the overall historic nature of the resource.

2.3 CHARACTERISTICS OF THE PROJECT

A comprehensive renovation of the building is proposed including improvements to fire and life safety; accessibility; repairs to historic elements that are deteriorating or causing deterioration; hazardous materials removal; replacement of the plumbing, heating, ventilation, and air conditioning systems; and replacement of the electrical power, telecommunications and security systems; landscaping; and renovation of the elevators. The project would likely provide a new office layout for the tenants. To the degree feasible, the project would be conducted in compliance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Buildings as administrated by the State Historic Preservation Officer. The project's sustainability goals are to exceed the 2019 Building Energy Efficiency Standards, achieve Zero Net Energy, and achieve the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED v4) Silver certification.

2.3.1 California Department of General Services Discretionary Approvals

The following actions are proposed and referred to collectively as the project approvals.

- Certification of the Final EIR
- Adoption of these Findings and the MMRP
- Approval of the project

2.3.2 Trustee and Responsible Agencies

The following agencies are acting as responsible agencies pursuant to CEQA Guidelines Sections 15381 and 15386, respectively. The only trustee agency that has jurisdiction over resources potentially affected by the project is the California Department of Fish and Wildlife (CDFW).

STATE AGENCIES

- California State Parks, Office of Historic Preservation (OHP)
- California Air Resources Board (CARB)
- California Highway Patrol, Capitol Protection Section (CPS)
- California Department of Fish and Wildlife (CDFW)

REGIONAL AND LOCAL AGENCIES

- City of Sacramento
- Sacramento Air Quality Management District (SMAQMD)

3 PROCEDURAL HISTORY

- DGS prepared and filed a Notice of Preparation (NOP) for an EIR on March 22, 2019 for the Gregory Bateson Building Renovation Project. The NOP was sent to the California State Clearinghouse, responsible agencies, interested parties and organizations, and private organizations and individuals that could have interest in the project. The NOP was available at the Sacramento Central Library at 828 I Street and at DGS Environmental Services Section office at 707 3rd Street, West Sacramento, upon request by email, and availability of the NOP was advertised in the Sacramento Bee.
- A scoping meeting was held on April 10, 2019 from 4:30 p.m. to 6:30 p.m.at The Courtyard Event Center at 1322 O Street, Sacramento, CA 95814, to provide agencies and the public with the opportunity to learn more about the project and to provide input as to the issues that should be addressed in the EIR. At the meeting, a presentation was given to describe the proposed project and to discuss key environmental issues identified in preliminary analyses, and receive input from public agencies and members of the public on the scope of issues that should be addressed in the EIR.
- DGS completed and distributed a Draft EIR for the proposed project; it was released on July 16, 2019 for public review and comment for a 45-day period, which concluded on August 30, 2019. The Draft EIR was posted at the State Clearinghouse and the Notice of Availability (NOA) of the EIR was mailed to relevant public agencies, responsible agencies, and all interested parties. The Draft EIR was available at the Sacramento Central Library at 828 I Street and at DGS Environmental Services Section office at 707 3rd Street, West Sacramento, on the project website http://bit.ly/DGSCEQA, and availability of the Draft EIR was advertised in the Sacramento Bee.
- DGS held a public hearing on the Draft EIR on August 21, 2019, from 4:30 p.m. to 6:30 p.m. at the Tsakopoulos Library Galleria, located at 828 I Street Sacramento, CA 95814, in the East Room. No formal oral comments were received from the public during this hearing.
- DGS received five written comment letters on the Draft EIR during the comment period from the agencies and organizations listed in Table 2-1 of the Final EIR. The Final EIR contains the comments and responses to each comment. Based on the comments received, edits were made to the Draft EIR as set forth in Chapter 3 of the Final EIR. Responses to agency comments were provided to each commenting agency on October 1, 2019.

4 RECORD OF PROCEEDINGS

In accordance with CEQA Section 21167.6(e), the record of proceedings for DGS's decision on the proposed Gregory Bateson Building Renovation Project includes, without limitation, the following documents:

- The NOP (March 22, 2019) and all other public notices issued by DGS in conjunction with the scoping period for the proposed project (provided in Appendix A of the Draft EIR in CD format);
- All comments submitted by agencies or members of the public during the scoping comment period on the NOP (provided in Appendix A of the Draft EIR in CD format);
- The Draft EIR (July 16, 2019) for the project (State Clearinghouse No. 2019039119);
- All comments submitted by agencies or members of the public during the comment period on the Draft EIR (provided in Chapter 2 of the Final EIR);
- Responses to agency comments on the Draft EIR provided to each commenting agency on October 1, 2019.
- The Final EIR (October 1, 2019) for the project, including comments received on the Draft EIR and responses to those comments as well as revisions to the Draft EIR;
- Documents cited or referenced in the Draft and Final EIRs;
- The Mitigation Monitoring and Reporting Program (MMRP) for the project (Attachment A to these Findings);
- All findings and resolutions adopted by DGS in connection with the project and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the project prepared by DGS, consultants to DGS, or responsible or trustee agencies with respect to DGS's compliance with the requirements of CEQA and with respect to DGS's action on the project;
- All documents submitted to DGS by other public agencies or members of the public in connection with the project up through final consideration of project approval;
- Any documentary or other evidence submitted to DGS at public meetings;
- Any other materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

The official custodian of the documents comprising the record of proceedings is the Department of General Services, Environmental Services Section, located at 707 3rd Street, West Sacramento, CA 95605. All files have been available to the Director and the public for review in considering these findings and whether to approve the project.

5 FINDINGS REQUIRED UNDER CEQA

Sections 5.1 through 5.4 below contain DGS's findings with respect to the environmental impacts of the project pursuant to the requirements of Public Resources Code 21081 and CEQA Guidelines Sections 15091 and 15097.

The Final EIR, consisting of the Draft EIR, comments on the Draft EIR, responses to comments on the Draft EIR, and revisions to the Draft EIR, are hereby incorporated by reference into these findings without limitation. This incorporation is intended to address the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, and the reasons for approving the project.

5.1 LESS-THAN-SIGNIFICANT IMPACTS AND AREAS OF NO IMPACT

The Director agrees with the characterization in Section 4.2, "Effects Found Not to be Significant" of the Final EIR with respect to issue areas identified as "no impact." The Director agrees with the characterization of impacts identified as "less than significant" in Chapters 4 and 5 of the Final EIR and finds that those impacts have been described accurately and are less than significant as so described in the Final EIR. The Director also agrees with determinations made in "Issues or Potential Impacts Not Discussed Further" sections in Chapter 4 of the EIR that identified issues or thresholds of significance that are not applicable or that would have no impact due to the Gregory Bateson Building Renovation Project.

This finding applies to the following impacts evaluated in the Final EIR determined to be "less than significant."

TRANSPORTATION AND CIRCULATION, EIR SECTION 4.4

- Impact 4.4-1: Impacts to Intersection Operations (less than significant)
- Impact 4.4-2: Impacts to Freeway Off-Ramp Queuing (less than significant)
- Impact 4.4-3: Impacts to Transit (less than significant)
- Impact 4.4-4: Impacts to Bicycle Facilities (less than significant)
- Impact 4.4-5: Impacts to Pedestrian Facilities (less than significant)
- Impact 4.4-6: Construction-Related Impacts (less than significant)

UTILITIES AND INFRASTRUCTURE, EIR SECTION 4.5

- Impact 4.5-1: New or Expanded Utility Infrastructure (less than significant)
- Impact 4.5-2: Adequacy of Water Supplies (less than significant)
- Impact 4.5-3: Impacts to Wastewater Infrastructure and Treatment Capacity (less than significant)
- Impact 4.5-4: Impacts to Landfills and Compliance with Solid Waste Regulations (less than significant)

AIR QUALITY, EIR SECTION 4.6

- Impact 4.6-1: Construction Emissions of Criteria Air Pollutants and Precursors (ROG, NOX, PM_{10}, and $PM_{2.5}$) (Less than significant)
- Impact 4.6-2: Long-Term Operational Emissions of ROG, NOx, PM_{10}, and $PM_{2.5}$ (less than significant)
- Impact 4.6-3: Mobile-Source CO Concentrations (less than significant)
- Impact 4.6-4: Exposure of Sensitive Receptors to TACs (less than significant)

GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE, EIR SECTION 4.7

- Impact 4.7-1: Project-Generated GHG Emissions (less than significant)

ENERGY, EIR SECTION 4.8

- Impact 4.8-1: Wasteful, Inefficient, or Unnecessary Consumption of Energy During Project Construction or Operation (less than significant)
- Impact 4.8-2: Conflict with or Obstruct a State or Local Plan for Renewable Energy or Energy Efficiency (less than significant)

NOISE, EIR SECTION 4.9

- Impact 4.9-1: Short-Term Construction-Generated Noise Levels (less than significant)
- Impact 4.9-2: Long-Term (Operational) Traffic-Generated Noise Levels (less than significant)

HAZARDS AND HAZARDOUS MATERIALS, EIR SECTION 4.10

- Impact 4.10-1: Storage, Use, or Transport of Hazardous Materials (less than significant)
- Impact 4.10-2: Exposure of Construction Workers and Others to Hazardous Materials (less than significant)

CUMULATIVE IMPACTS, EIR CHAPTER 5

- Cumulative Impacts Related Intersection Level of Service (less than significant)
- Cumulative Impacts related to Vehicle Miles Traveled (less than significant)
- Cumulative Impacts to Water Supply (less than significant)
- Cumulative Impacts to Water Delivery Infrastructure (less than significant)
- Cumulative Impacts to Stormwater/Wastewater Conveyance Facilities (less than significant)
- Cumulative Impacts to Wastewater Treatment Facilities (less than significant)
- Cumulative Impacts Related to Electricity, Natural Gas, and Energy Efficiency (less than significant)
- Cumulative Short-Term Construction-Related Air Quality Impacts (less than significant)
- Cumulative Long-Term Operational-Related Air Quality Impacts (less than significant)
- Cumulative Impacts Related to Greenhouse Gas Emissions and Climate Change (less than significant)
- Cumulative Impacts Related to Energy (less than significant)
- Cumulative Impacts Related to Noise or Vibration (less than significant)
- Cumulative Hazardous Materials and Public Health Effects (less than significant)

5.2 SIGNIFICANT IMPACTS SUFFICIENTLY REDUCED THROUGH MITIGATION MEASURES

The Director agrees with the characterization in the Final EIR with respect to all impacts identified as "significant" or "potentially significant" that will be reduced to less-than-significant levels with implementation of the mitigation measures identified in the Final EIR and MMRP. In accordance with CEQA Guidelines Section 15091(a), a specific finding is made for each impact and its associated mitigation measures in the discussions below.

The Director agrees that the Gregory Bateson Building Renovation Project would not result in any significant-and-unavoidable adverse impact (i.e., impacts that cannot be reduced to less than significant levels with feasible mitigation).

5.2.1 Archaeological, Historical, and Tribal Cultural Resources, EIR Section 4.3

Impact 4.3-1: Potential for Impacts on Significant Historic Archaeological Resources

Mitigation Measure 4.3-1: Monitoring and Response Measures for Potential Unknown Historic Archaeological Resources

A cultural resources awareness training program will be provided to all construction personnel active on the project site during earth moving activities. The first training will be provided prior to the initiation of ground disturbing activities. The training will be developed and conducted in coordination with a qualified archaeologist. The program will include relevant information regarding sensitive cultural resources, including applicable regulations, protocols for avoidance, and consequences of violating State laws and regulations. The worker cultural resources awareness program will also describe appropriate avoidance and minimization measures for resources that have the potential to be located on the project site and will outline what to do and whom to contact if any potential archaeological resources or artifacts are encountered.

Where ground disturbing activities occur in native soils, or there is no evidence of extensive past ground disturbances, a qualified archaeologist will monitor ground- disturbing activities. If evidence of any historic-era subsurface archaeological features or deposits are discovered during construction-related earth-moving activities (e.g., ceramic shard, trash scatters), all ground-disturbing activity in the area of the discovery shall be halted until a qualified archaeologist can access the significance of the find. If after evaluation, a resource is considered significant, all preservation options shall be considered as required by CEQA, including possible data recovery, mapping, capping, or avoidance of the resource. If artifacts are recovered from significant historic archaeological resources, they shall be housed at a qualified curation facility. The results of the identification, evaluation, and/or data recovery program for any unanticipated discoveries shall be presented in a professional-quality report that details all methods and findings, evaluates the nature and significance of the resources, analyzes and interprets the results, and distributes this information to the public.

Finding: Implementation of Mitigation Measure 4.3-1, which has been required, will reduce the potential impacts to historic archaeological resources to a less-than-significant level. Specifically, Mitigation Measure 4.3-1 will require construction monitoring and, in the case of a discovery, preservation options (including data recovery, mapping, capping, or avoidance) and proper curation if significant artifacts are recovered. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 4.3-20 and 4.3-21)

Impact 4.3-2: Potential for Impacts on Significant Prehistoric Archaeological and Tribal Cultural Resources

Mitigation Measure 4.3-2: Monitoring and Response Measures for Potential Unknown Prehistoric Archaeological Resources and Tribal Cultural Resources

This mitigation measure expands on the actions included in Mitigation Measure 4.3-1 to also address encountering unknown prehistoric archaeological and tribal cultural resources.

A representative or representatives from culturally affiliated Native American Tribe(s) will be invited to participate in the development and delivery of the cultural resources awareness training program included in Mitigation Measure 4.3-1. The program will include relevant information regarding sensitive tribal cultural resources, including applicable regulations, protocols for avoidance, and consequences of violating State laws and regulations. The program will also underscore the requirement for confidentiality and culturally-appropriate treatment of any find of significance to Native Americans and behaviors, consistent with Native American Tribal values.

Where ground disturbing activities occur in native soils, or there is no evidence of extensive past ground disturbances, or evidence suggests that imported soils have a high probability of containing artifacts and materials of importance to tribal entities, a qualified archaeologist will monitor ground- disturbing activities. Native American representative(s) will be invited to observe any excavations. Interested Native American Tribes will be provided at least seven days' notice prior to the initiation of ground disturbing activities. If any previously undisturbed native soil is imported to the project site for fill or other purposes, the archaeologist and Native American representative(s) will also monitor handling and placement of this material to determine if archaeological material may be imported with the native soil. The determination for initiating or ending monitoring disturbance of imported soils will be made based on coordination between the qualified archeologist and Native American monitor, with a final determination made by DGS.

If evidence of any prehistoric subsurface archaeological features or deposits are discovered during construction-related earth-moving activities (e.g., lithic scatters, midden soils), all ground-disturbing activity in the vicinity of the discovery shall be halted until a qualified archaeologist and Native American representative can assess the significance of the find. If after evaluation, a resource is considered significant, or is considered a tribal cultural resource, all preservation options shall be considered as required by CEQA, including possible data recovery, mapping, capping, or avoidance of the resource. If artifacts are recovered from significant prehistoric archaeological resources, they shall be transferred to an appropriate tribal representative, or housed at a qualified curation facility. If artifacts or other materials must be removed, preference shall be given to transferring materials to an appropriate tribal representative and re-interring the material at a location on the project site. The results of the identification, evaluation, and/or data recovery program for any unanticipated discoveries shall be presented in a professional-quality report that details all methods and findings, evaluates the nature and significance of the resources, analyzes and interprets the results, and distributes this information to the public.

Finding: Implementation of Mitigation Measure 4.3-2, which has been required, will reduce the potential impacts to prehistoric archaeological and tribal cultural resources to a less-than-significant level. Specifically, Mitigation Measure 4.3-2 will require construction monitoring, requiring construction to halt in the case of a discovery, preservation options (including data recovery, mapping, capping, and avoidance), and proper care of significant artifacts if they are recovered, including re-interring material on the project site. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 4.3-21 through 4.3-22)

Impact 4.3-3: Potential Discovery of Human Remains

Mitigation Measure 4.3-3: Response Protocol in Case Human Remains are Uncovered

Consistent with the California Health and Safety Code and the California Native American Historical, Cultural, and Sacred Sites Act, if suspected human remains are found during project construction, all work shall be halted in the immediate area, and the county coroner shall be notified to determine the nature of the remains. The coroner shall examine all discoveries of suspected human remains within 48 hours of receiving notice of a discovery on private or State lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she shall contact the NAHC by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). The NAHC shall then assign an MLD to serve as the main point of Native American contact and consultation. Following the coroner's findings, the MLD, in consultation with the State, shall determine the ultimate treatment and disposition of the remains.

Finding: Implementation of Mitigation Measure 4.3-3, which has been required, will reduce the potential impacts to human remains to a less-than-significant level. Specifically, Mitigation Measure 4.3-3 will require work to stop if human remains are found, communication with the county coroner and the proper identification and treatment of the remains consistent with the California Health and Safety Code and the California Native American Historical, Cultural, and Sacred Sites Act. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 4.3-23)

Impact 4.3-4: Potential for Impacts on Historic Architectural Resources

Mitigation Measure 4.3-4: Adherence to the Gregory Bateson Building Historic Structure Report, the Secretary of the Interior's Standards for the Treatment of Historic Properties, the California State Historical Building Code, and relevant National Park Service Preservation Briefs

DGS has a preservation architect under contract as part of the project criteria team. The preservation architect's role is to prepare a Historic Structure Report (HSR) for the Bateson Building in accordance with NPS Preservation Brief 43 and include mitigation measures in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS) or the California Historical Building Code (CHBC). The HSR will identify historic preservation and requirements for the treatments and use of the building prior to initiation of renovations to ensure that the historical significance and condition of the building is considered in the development of proposed renovation work.

DGS will ensure that preservation treatment objectives for the Gregory Bateson Building will meet all SOIS for character-defining features designated in the HSR as having primary significance status, and meet as many SOIS as feasible for those character-defining features designated as having secondary significance status. In instances when DGS must address human safety issues not compatible with the SOIS, DGS will adhere to the CHBC to the extent feasible. The CHBC is defined in Section 18950 to 18961 of Division 13, Part 2.7 of the Health and Safety Code. The CHBC is a mechanism that provides alternative building regulations for permitting repairs, alterations and additions to historic buildings and structures. These standards and regulations are intended to facilitate the rehabilitation and preservation of historic buildings. The CHBC proposes reasonable alternatives so that a property's fire protection, means of egress, accessibility, structural requirements and methods of construction would not need to be modernized in a manner that compromises historic integrity. The CHBC is intended to allow continued, safe occupancy while protecting the historic fabric and character-defining features that give a property historic significance, thus promoting adherence to the SOIS. The CHBC recognizes that efforts to preserve the historic materials, features, and overall character of a historic property at times may be in conflict with the requirements of standard buildings codes. The Office of the State Fire Marshall (OSFM) has ultimate authority over health and safety and may require use of the standard building code in some instances.

DGS will use the HSR to help meet SOIS and CHBC requirements since it includes treatments that draw from National Park Service Preservation Briefs relevant to the proposed renovation work, including, but not limited to, Briefs providing guidance on rehabilitating interiors of historic buildings, dangers of abrasive cleaning, cleaning and water-repellent treatments, use of substitute exterior materials, improving energy efficiency, and treating architectural terra-cotta.

DGS will ensure that the HSR's historic preservation objectives and treatment requirements for the Gregory Bateson Building are incorporated into the design and construction specifications. DGS will consult with the project development team's preservation architect and with staff preservation architects within the Architectural Review and Environmental Compliance Unit of the State Office of Historic Preservation for guidance as needed.

Finding: Implementation of Mitigation Measure 4.3-4, which has been required, will reduce the potential impacts to historic architectural resources to a less-than-significant level. Specifically, Mitigation Measure 4.3-4 requires application of the SOIS for all character-defining features with a primary significance or as feasible for secondary significance status, and in instances in which actions required to secure human safety are not compatible with the SOIS, the application of the CHBC. Further, Mitigation Measure 4.3-4 will minimize or eliminate the potential for the project to impair the qualities that qualify the Gregory Bateson Building as a CEQA historical resource. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 4.3-23 and 4.3-24)

5.2.2 Biological Resources, EIR Section 4.11

Impact 4.11-1: Disturbance to Swainson's Hawk, Other Nesting Raptors, and Other Native Nesting Birds

Mitigation Measure 4.11-1: Protect Nesting Swainson's Hawks, Other Raptors, and Other Native Birds

DGS shall require that the following measures are implemented before and during construction:

- To minimize the potential for loss of nesting raptors and other native nesting birds, tree removal and construction activities that could result in disturbance to nesting raptors (i.e., external building renovations near or within the sightline of a raptor nest), to the maximum extent feasible, will be conducted during the nonbreeding season (September 1-January 31). If construction activities commence during the nonbreeding season, and no lapse in activities greater than 14 days occurs, no further mitigation will be required.
- If construction activities that could result in disturbance to nesting raptors commence during the breeding season (February 1 through August 31), a qualified biologist will conduct a survey no more than 14 days prior to the start of construction of the trees surrounding the building to assess whether any trees contain nesting Swainson's hawk, other nesting raptors, or other nesting native bird species (protected by Section 3503 of the Fish and Game Code). Construction activities will only commence if the biologist verifies that no active nests for any Swainson's hawks or other raptor species are present. If an active raptor nest is present, construction will not start until young have fledged. If construction activities that could result in disturbance to nesting raptors lapse for greater than 14 days during the breeding season, then an additional survey will be required prior to the restart of construction.
- If a species other than a raptor species is found nesting, DGS will coordinate with CDFW regarding the best approach for compliance with Section 3503 of the Fish and Game Code. For example, common species in urban environments, such as house finch, may tolerate some increase in noise or other construction activities within close proximity of the nest, and presence of these nests may have no effect on nearby construction activity.

Finding: Implementation of Mitigation Measure 4.11-1, which has been required, will reduce potentially significant impacts associated with raptors and other nesting birds to less-than-significant levels by requiring that any tree removal occur during the nonbreeding season, pre-construction surveys, and coordination with CDFW, when necessary. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 4.11-11 and 4.11-12)

Impact 4.11-2: Disturbance to Common Bat Roosts and Maternal Colonies

Mitigation Measure 4.11-2: Conduct Preconstruction Surveys for Bats and Exclude Bats from Roosting Site

DGS shall require that the following measures are implemented before and during construction:

- Prior to commencement of construction activities, a qualified biologist will conduct a survey of the exterior and interior of the Bateson Building for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts. If no evidence of bat roosts is found, then no further study and no further mitigation will be required.
- If bat roosts or a maternity colony are found, bats will be excluded from the roosting site before construction begins. Exclusion efforts may be restricted during periods of sensitive activity (e.g., during hibernation or while females in maternity colonies are nursing young). Once, it is confirmed that bats are not present in the original roost site, construction activities may commence.

Finding: Implementation of Mitigation Measure 4.11-2, which has been required, will reduce potentially significant impacts associated with common bat roosts and maternity colonies to a less-than-significant level because roosts and maternity colonies would be identified and bats would be excluded during construction activities. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 4.11-12 and 4.11-13)

Impact 4.11-3: Conflict with Any Local Applicable Policies Protecting Biological Resources

Mitigation Measure 4.11-3: Remove and Replace Trees Consistent with the City of Sacramento Tree Preservation Ordinance

Before construction, DGS will complete a survey of trees at the project site and any other areas affected by excavation (e.g., utility work) and construction, and prepare and submit a detailed tree removal, protection, replanting, and replacement plan to the City arborist. The tree removal plan will be developed by a certified arborist. The plan shall include the following elements:

- The number, location, species, health, and sizes of all trees to be trimmed; have their roots affected; or to be removed, relocated, and/or replaced. This information will also be provided on a map/design drawing to be included in the in the project plans.
- Planting techniques, necessary maintenance regime, success criteria, and a monitoring program for all trees planted on, or retained on the project site.
- DGS will ensure implementation of the tree relocation/removal/replacement plan during project construction and operation.

Finding: Implementation of Mitigation Measure 4.11-2, which has been required, will reduce potentially significant impacts associated with tree removal to a less-than-significant level because by providing replacement trees and complying with the City's Tree Preservation Ordinance. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 4.11-13)

5.2.3 Cumulative Impacts, EIR Chapter 5

Cumulative Impacts to Archaeological Resources, Tribal Cultural Resources, and Human Remains

Mitigation Measures

Implement Mitigation Measures 4.3-1, 4.3-2, and 4.3-3 (see findings above regarding these mitigation measures).

Finding: Implementation of Mitigation Measures 4.3-1, 4.3-2, and 4.3-3, which have been required, will reduce the project's contribution to cumulative archaeological resource impacts to a less-than-cumulatively-considerable level. Specifically, these mitigation measures require cultural resources awareness training for all construction personnel active on the project site during earth moving activities, construction monitoring and, in the case of a discovery, preservation options (including data recovery, mapping, capping, or avoidance) and proper curation if significant artifacts are recovered. By providing an opportunity to avoid disturbance, disruption, or destruction of archaeological resources, implementation of the project would result in a less-than-significant contribution to the cumulative impact. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 5-8)

Cumulative Impacts to Historic Structures

Mitigation Measures

Implement Mitigation Measures 4.3-4a and 4.3-4b (see findings above regarding these mitigation measures).

Finding: Implementation of Mitigation Measures 4.3-4a and 4.3-4b, which have been required, will reduce the project's contribution to cumulative historic structure impacts to a less-than-cumulatively-considerable level. Specifically, these mitigation measures ensure that preservation treatment objectives meet all Secretary of the Interior's Standards (SOIS) for character-defining features having primary significance status and meet as many SOIS as feasible for those character-defining features designated as having secondary significance status, require adherence to the California State Historical Building Code to the extent feasible in instances when DGS must address human safety issues not compatible with the SOIS, and require maintenance of the low-profile roundabout that allows views of the Capitol and Capitol Mall and maintains the character of the Capitol Extension Group. By providing an opportunity to preserve features and characteristics of existing important features, implementation of the project would result in a less-than-significant contribution to the cumulative impact. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 5-8)

Cumulative Impacts to Biological Resources

Mitigation Measures

Implement Mitigation Measures 4.11-1, 4.11-2, and 4.11-3 (see findings above regarding these mitigation measures).

Finding: Implementation of Mitigation Measures 4.11-1, 4.11-2, and 4.11-3, which have been required, would prevent all potential adverse effects on potential nests, potential bat roosts, and City trees and would reduce impacts to less-than-significant levels. Specifically, Mitigation Measure 4.11-1 would ensure that disturbance of nests be avoided. Mitigation Measure 4.11-2 would require identification of roosts and maternity colonies and would exclude bats during construction activities. Further, Mitigation Measure 4.11-3 would require compliance with the City's Tree Preservation Ordinance and providing replacement trees if any trees are removed during project construction. Through implementation of these measures, the project would result in a less-than-significant contribution to the cumulative impact. DGS, therefore, finds that changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental impact identified in the Final EIR. (Draft EIR page 5-14).

5.3 FINDINGS REGARDING PROJECT ALTERNATIVES

Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of potentially feasible alternatives, an alternative may ultimately be deemed by the lead agency to be "infeasible" if it fails to fully promote the lead agency's underlying goals and objectives with respect to the project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 401, 417.) "'[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*Ibid*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) Thus, even if a project alternative will avoid or substantially lessen any of the significant environmental effects of the project, the decision-makers may reject the alternative if

they determine that specific considerations make the alternative infeasible, or if the alternative does not meet the objectives for the project.

All of the environmental impacts associated with the project would be substantially lessened or avoided with the adoption of the mitigation measures set forth in these findings. DGS' goal in evaluating the project alternatives was to select an alternative that feasibly attains the project objectives, while further reducing the project's potentially significant impacts.

CEQA Guidelines require that an EIR "describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly obtain the basic objectives of the project…" (CEQA Guidelines Section 15126.6[a]). The lead agency has the discretion to determine how many alternatives constitute a reasonable range and that an EIR need not present alternatives that are incompatible with fundamental project objectives. Additionally, CEQA Guidelines Section 15126.6(a) provides that an EIR need not consider alternatives that are infeasible. CEQA Guidelines Section 15126.6(f)(1) provides that among the factors that may be taken into account when addressing the feasibility of alternatives are "site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site." CEQA Guidelines Section 15126.6(f) states that the range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The EIR analysis considered a reasonable range of alternatives.

5.3.1 Alternatives Considered but not Evaluated Further

The EIR disclosed that there was one alternative considered by DGS but rejected during the planning or scoping process (see discussion in Draft EIR in Chapter 7, "Project Alternatives"). DGS considered demolition and reconstruction of the Gregory Bateson Building. A fundamental objective of the project as proposed is to retain the overall historic nature of the building and to achieve the highest and best use of State-owned property. Demolition and reconstruction would therefore represent unnecessary costs to the State and demolition and construction would likely increase the temporary construction impacts related to transportation, noise, air emissions, GHG emissions, and energy use. In addition, demolition of the building would result in the loss of a historic building. For these reasons, this alternative was rejected from further consideration.

5.3.2 Alternatives Evaluated in the EIR

The following two alternatives were analyzed in the Draft EIR to determine whether they could meet the project's objectives while avoiding or substantially lessening any of its significant impacts:

- Alternative 1: No Project–No Development Alternative assumes no renovation of the Gregory Bateson Building and continued operation of the building in its current condition.
- Alternative 2: Restore Historic Features of the Gregory Bateson Building Alternative assumes that the historic features of the Gregory Bateson Building would be restored to the Secretary of the Interior Standards and Guidelines for the Restoration of Historic Buildings. The building restoration would be similar to the proposed project, but where project features conflict with historic features, this alternative would only implement building upgrades that could maintain or restore the historic characteristics of the building.

In compliance with CEQA, these Findings examine these two alternatives and the extent to which they lessen or avoid the project's potentially significant environmental effects while meeting the project objectives.

In addressing the No Project Alternative, DGS followed the direction of the State CEQA Guidelines which provide that the no project analysis shall discuss the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services (CEQA Guidelines Section 15126[d][4]).

The Director finds that a good faith effort was made to evaluate all reasonable alternatives to the project that could feasibly obtain its basic objectives, even when the alternatives might impede the attainment of the objectives or might

be more costly. The Director also finds that all reasonable alternatives were reviewed, analyzed, and discussed in the review process of the Final EIR and the ultimate decision on the project.

ALTERNATIVE 1: NO PROJECT – NO DEVELOPMENT ALTERNATIVE

Description: Under Alternative 1, the No Project–No Development Alternative, no actions would be taken by DGS and the project sites would remain unchanged from current conditions.

Summary of Impacts: Alternative 1, the No Project – No Development Alternative, would avoid the project's significant mitigable impacts, and overall, the environmental impacts would be less than those that would occur with the project because no development would occur. Because this alternative would not renovate the existing building and would not involve any construction, it would avoid the project's potentially significant impacts associated with archaeological, historical, and cultural resources as well as biological resources (Impacts 4.3-1, 4.3-2, 4.3-3, 4.3-4, 4.11-1, 4.11-2, and 4.11-3).

Finding: Under Alternative 1, the No Project – No Development Alternative, the project would not be approved, and no development would occur. This would avoid the significant environmental effects of the project. Accordingly, Alternative 1 is the environmentally superior alternative. (CEQA Guidelines, § 15126.6; see Draft EIR, p. 7-8.) However, the No Project – No Development Alternative would not meet the project objectives because it would not extend the life and viability of the building, improve tenant safety and comfort, upgrade existing building systems (including fire and life safety), remove hazardous materials, meet current ADA standards, halt water intrusion, allow for a new office space plan, or improve energy efficiencies. Pursuant to Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the Director finds that because Alternative 1 would not meet the project objectives, the Director rejects Alternative 1.

ALTERNATIVE 2: FULL HISTORIC RESTORATION ALTERNATIVE

Description: Alternative 2, the Full Historic Restoration Alternative, assumes that the historic features of the Gregory Bateson Building would be restored to the Secretary of the Interior Standards and Guidelines for the Restoration of Historic Buildings. The building restoration would be similar to the proposed project, but where project features conflict with historic features, this alternative would only implement building upgrades that could maintain or restore the historic characteristics of the building. Alternative 2 would not support any additional employees in the building.

Summary of Impacts: Alternative 2, the Full Historic Restoration Alternative, would generally result in less environmental impacts than the project. Alternative 2 would avoid impacts to the character defining features of the historic building and would reduce operational impacts because there would be no additional employees and no additional vehicular trips. Alternative 2 would result in similar hazards and hazardous materials impacts, as well as biological impacts, due to hazardous materials abatement and potential disturbance to raptors, bats, and City street trees. However, any potential impacts related to hazards and biological resources would either be reduced through compliance with existing regulations or identified mitigation measures.

Finding: The Director finds that implementing Alternative 2, the Full Historic Restoration Alternative, would hinder DGS' ability to meet the project objectives, which are to implement fire-life safety improvements, ADA upgrades, infrastructure upgrades, and hazardous material removal. Though Alternative 2 would generally result in less environmental effects than the proposed project, under this alternative, preservation and restoration of the historic elements of the Gregory Bateson Building would be prioritized over other building improvements. It is anticipated that this would result in various building code and fire and life safety measures being infeasible to implement. Therefore, Alternative 2 would not serve the safety and comfort of State employees with an up-to-code building.

Pursuant to Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), the Director finds that because Alternative 2 would not meet the primary project objectives, the Director rejects Alternative 2.

After consideration of the project objectives, alternatives, environmental analysis in the Final EIR, and comments submitted, the Director determines to approve the proposed Gregory Bateson Building Renovation Project.

6 MITIGATION MONITORING AND REPORTING PROGRAM

DGS has prepared a Mitigation Monitoring and Reporting Program (MMRP) for the Gregory Bateson Building Renovation Project. The Director, in adopting these findings, also approves the MMRP. DGS will use the MMRP to track compliance with project mitigation measures. The MMRP will remain available for public review during the compliance period. The MMRP is attached to and incorporated into the Gregory Bateson Building Renovation Project and is approved in conjunction with certification of the EIR and adoption of these Findings of Fact. In the event of any conflict between these findings and the MMRP with respect to the requirements of an adopted mitigation measure, the more stringent measure shall control, and shall be incorporated automatically into both the findings and the MMRP.

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Attachment A

Mitigation Monitoring and Reporting Program