TRACY CITY COUNCIL AMENDED SPECIAL MEETING AGENDA

Tuesday, August 6, 2013, 6:00 p.m.

City Council Chambers, 333 Civic Center Plaza *Web Site:* *www.ci.tracy.ca.us*

Americans With Disabilities Act - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6000) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda - The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. Each citizen will be allowed a maximum of five minutes for input or testimony. At the Mayor's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Consent Calendar - All items listed on the Consent Calendar are considered routine and/or consistent with previous Council direction. A motion and roll call vote may enact the entire Consent Calendar. No separate discussion of Consent Calendar items will occur unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. Members of the public addressing the Council should state their names and addresses for the record, and for contact information. The City Council's Procedures for the Conduct of Public Meetings provide that "Items from the Audience" following the Consent Calendar will be limited to 15 minutes. "Items from the Audience" listed near the end of the agenda will not have a maximum time limit. Each member of the public will be allowed a maximum of five minutes for public input or testimony. However, a maximum time limit of less than five minutes for public input or testimony may be set for "Items from the Audience" depending upon the number of members of the public wishing to provide public input or testimony. The five minute maximum time limit for each member of the public applies to all "Items from the Audience." Any item not on the agenda, brought up by a member of the public shall automatically be referred to staff. In accordance with Council policy, if staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

Presentations to Council - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed to a majority of the Council regarding an item on the agenda shall be made available for public inspection at the City Clerk's office (address above) during regular business hours.

Notice - A 90 day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90 day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

Full copies of the agenda are available at City Hall, 333 Civic Center Plaza, the Tracy Public Library, 20 East Eaton Avenue, and on the City's website www.ci.tracy.ca.us

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL

1. CONSENT CALENDAR

A. Approval of Minutes

B. Approval of an Agreement with the Tracy Unified School District (TUSD) and Authorization for the Mayor to Execute the Agreement; Accept Funding for Drug Abuse And Resistance Program (DARE) to be used for Supplies, T-Shirts, and Graduation Expenses for Fiscal Year 2013-14, in the Amount of $10,000

C. Authorize the Appointment of Six Youth Commissioners to the Youth Advisory Commission

D. Approval of Wholesale Water Agreement Between Byron Bethany Irrigation District and the City of Tracy for Water Supply for Tracy Hills, Find the CEQA Negative Declaration Adequate for the City's Use, and Authorize the Mayor to Execute the Agreement

E. Rescind Resolution 2013-076, Approve the Revised Lathrop-Tracy Purchase, Sale and Amendment Agreement, Authorize the Mayor to Execute the Agreement, Authorize a Supplemental Appropriation from the Wastewater Fund and Establish a Loan to the Water Fund in the Amount of $5 Million

F. Authorization of Amendment No. 22 to Professional Services Agreement No. CH8 with CH2M Hill for Preparation of Wastewater Treatment Plant 2013-15 NPDES Permit Studies and Authorization for the Mayor to Execute the Amendment

G. Adopt a Resolution Authorizing the City Manager to Sign Terms and Conditions of Accepting Airport Improvement Program Grants; Execute Grant Agreements AIP #3-06-0259-014-2013 and AIP #3-06-0259-015-2013 in the amount of $600,000 with the Federal Aviation Administration for an Update to the Airport Layout Plan, Reimbursement for a Pavement Maintenance and Management Plan, and Reimbursement for Engineering and Design Work on the Airport Pavement Project

H. Approval of Task Order No. 3 with R.W. Brandley, Consulting Airport Engineer, for an Update of the Airport Layout Plan for the Tracy Municipal Airport Required for Implementation of a Federal Aviation Grant, Authorize the Mayor to Execute the Task Order, Authorize use of $79,650 from the Airport Fund for the Completion of the Task Order until Reimbursement from the Federal Aviation Administration

I. Award A Professional Services Agreement (PSA) No. DE 2 with Dokken Engineering to Provide Professional Services to Prepare Project Approval and Environmental Documents (PA & ED) for the I-205 / Chrisman Road New Interchange Project CIP 73109, Federal No. HPLULN-5192 (034), for a Not-to-Exceed Amount of $826,919, Authorize the Director of Development Services to Acquire Additional Services if Needed up to an Amount of $80,000, Authorize Transfer of $239,838 from CIP 73014 to 73109, and Authorize the Mayor to Execute the Agreement

J. Acceptance of the Jackson Alley and 9th Street Storm Drainage Improvement CIP 73134A, Completed by Extreme Excavation of Tracy, California, and Authorization for the City Clerk to File the Notice of Completion

K. Acceptance of the Monitoring Wells Abandonment Project – CIP 71033, Completed by Technicon Engineering Services, Inc., of Fresno, California, and Authorization for the City Clerk to File the Notice of Completion

L. Rescind Resolution 2013-077 and Approve Four Reimbursement Agreements with Cordes Ranch Property Owners for the Acquisition of Water Supply

M. Approval of Amendment Number Four to the Professional Services Agreement with Design, Community and Environment, Inc. for the Preparation of an Environmental Impact Report, Assistance with the Preparation of a Specific Plan and Annexation for the Cordes Ranch Specific Plan Project

N. Approval of a Real Property Purchase Agreement with Maria O. Silva Revocable Trust and Bernadine (A.K.A. Bernardine) Silva for Acquisition of the Right-of-Way for a Storm Drainage Channel in the North East Industrial (NEI) Area and Authorize the Mayor to Execute the Agreement

2. ITEMS FROM THE AUDIENCE

3. COUNCIL ITEMS

4. ADJOURNMENT

TRACY CITY COUNCIL	REGULAR MEETING MINUTES

June 4, 2013, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza *Web Site:* www.ci.tracy.ca.us

Mayor Ives called the meeting to order at 7:03 p.m. and led the Pledge of Allegiance.

The invocation was offered by Pastor Kevin James, New Creation Bible Fellowship.

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

Mayor Ives presented a proclamation to Marshall Rose, President of Tracy Crime Stoppers, in recognition of Crime Stoppers Month.

Mayor Ives presented a proclamation to Sergeant Matthew McCracken in recognition of U.S. Army Week.

Mayor Ives presented a proclamation to Gene Hardin, Director of "The Lisa Project", Child Abuse Protection Council, recognizing the efforts of the Child Abuse Council in sharing the message of prevention and intervention of child abuse.

Mayor Ives recognized students from Bella Vista Christian Academy, Saint Bernard's Catholic School, and South/West Park Elementary Schools, in honor of their D.A.R.E. graduation.

1. CONSENT CALENDAR – It was moved by Mayor Pro Tem Maciel and seconded by Council Member Young to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.

   A. Approval of Minutes – Special meeting minutes of February 21, 2013 and February 22, 2013, regular meeting minutes of April 2, 2013, and closed session minutes of April 16, 2013, were approved

   B. Approve the Lathrop-Tracy Purchase, Sale and Amendment Agreement, Authorize a Supplemental Appropriation from the Wastewater Fund and Establishing a Loan to the Water Fund in the Amount of $5 Million and Authorize the Mayor to Execute the Agreement – Resolution 2013-076 approved the Agreement.

   C. Approval of Four Reimbursement Agreements with Urban Reserve 6 Property Owners for the Acquisition of Water Capacity and Supply – Resolution 2013-077 approved the Reimbursement Agreements.

   D. Adoption of the Appropriations Limit for FY 2013-2014 for the City of Tracy – Resolution 2013-078 approved the appropriation limits.

   E. Approval of an Inspection Improvement Agreement for Muirfield 7 – Phase 4, Tract 3779, and Authorization for the Mayor to Execute the Agreement on Behalf of the City – Resolution 2013-079 approved the Agreement.

F. Accept Travel Report from City Attorney Regarding Attendance at League of California Cities City Attorneys' Conference – Report accepted.

G. Authorize Staff to Send Notice Terminating the Professional Services Agreement with RBF Consulting, Inc.; Find that Compliance with the Formal Request for Proposal Procedure is not in the Best Interest of the City; and Approve a Professional Services Agreement with Kimley-Horn and Associates, Inc. Consulting to Provide California Environmental Quality Act ("CEQA") Documentation for Infrastructure Improvement and Development Permits within the Cordes Ranch Specific Plan Area; and authorize the Mayor to Execute the Agreement – Resolution 2013-080 approved terminating the PSA with RBF Consulting and approved the PSA with Kimley-Horn and Associates.

H. Approval of the San Joaquin Council of Governments (SJCOG) Annual Financial Plan for FY 2013-2014 – Resolution 2013-081 approved the Annual Financial Plan.

I. Approve a Professional Services Agreement (PSA) with Carollo Engineers for Design and Preparation of Improvement Plans and Construction Documents for Clearwell #3 CIP 75PP-106 at the John Jones Water Treatment Plant and Determine the Formal Request for Proposal Procedure is Not in the Best Interest of the City in this Instance – Resolution 2013-082 approved the Agreement.

2. ITEMS FROM THE AUDIENCE – A 16 year Tracy resident addressed Council requesting permission to keep the birds he has in his yard.

Paul Miles, 1397 Mansfield Street, addressed Council regarding concerns with City staff and police personnel. Mr. Miles provided Council with a letter and two magazine articles.

3. PUBLIC HEARING OF THE CITY COUNCIL TO CONSIDER ADOPTION OF THE ANNUAL BUDGET FOR THE CITY OF TRACY FOR FY 2013-2014 AND AUTHORIZE APPROPRIATIONS FOR FY 2013-2014 – Leon Churchill, Jr., City Manager, provided the staff report. The proposed operating budget for FY 2013-2014 was presented to Council at a budget workshop on May 21, 2013. The focus of the operating budget is the General Fund. As presented at the budget workshop the proposed General Fund expenditure budget was $50,025,440. Revenues are sufficient to cover expenses, and an excess of $604,920 is anticipated. The proposed City operating budget for FY 13-14 for all funds is $117,724,750, including the General Fund.

The proposed capital budget has been reduced by $327,750 since the workshop. This change was included in the proposed budget and requests $57,464,300 in appropriations for the capital budget. The proposed City debt service budget for FY 13-14 for all funds is $20,696,850 and proposed inter-fund transfers for FY 13-14 are $2,251,800.

The annual City budget to be adopted for FY 13-14 will be as follows:

	General Fund	*Other Funds*	*All Funds*
Operating Budget	$50,025,440	$67,699,310	$117,724,750
Capital Budget	0	57,464,300	57,464,300
Debt Service	1,204,000	19,492,850	20,696,850
TOTAL	**$51,229,440**	**$144,656,460**	**$195,885,900**

As projected, there will be sufficient resources to cover all proposed expenditures. Most funds have sufficient reserves and/or revenues to cover their expenditures. In a few cases, loans will be required for some funds.

Staff recommended that Council adopt the City of Tracy Budget and Appropriations Resolution for FY 2013-2014.

Council Member Rickman asked what the current reserves were. Allan Borwick, Budget Officer, indicated approximately $29 million.

Mayor Ives opened the public hearing.

North School students thanked Council for their support to build the basketball court at El Pescadero Park.

Robert Tanner, 1371 Rusher Street, recommended Council save the excess reserves versus spending it until Measure E is no longer funding a majority of the spending.

Paul Miles, 1397 Mansfield Street, addressed Council echoing Mr. Tanner's comments.

As there was no one further wishing to address Council, the public hearing was closed.

Council Member Rickman asked where the City would be financially in 2015, when Measure E sunsets. Mr. Churchill indicated he was an optimist and stated the City has managed its resources well. Mr. Churchill indicated forecasts have shown that the City will have a $3.6 million gap when Measure E ends. Mr. Churchill added that the full impact of Amazon and similar facilities on the City is unknown, as well as the amount of property tax revenue which is slowly increasing. Mr. Churchill further stated there would be other cost reduction proposals presented to Council for consideration.

Council Member Rickman thanked staff for their efforts regarding the increase in sales tax and new businesses and encouraged staff to continue cutting costs.

Council Member Manne referred to the presentation which indicated the outlook for sales tax was encouraging. Mr. Churchill stated that within a year the City will realize the impact of Amazon and other fulfillment centers, and cited a continuing increase in consumer spending as a basis for his optimism.

Mayor Ives asked if there were housing projects pending that would also help with property taxes. Mr. Churchill indicated housing prices will lead to property tax growth which should be realized next year and added additional rooftops mean additional consumers.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adopt Resolution 2013-083 approving the annual budget and appropriations for the City of Tracy for FY 2013-2014. Voice vote found all in favor; passed and so ordered.

4. PUBLIC HEARING TO CONSIDER (1) APPROVING THE ENGINEER'S ANNUAL LEVY REPORT; (2) ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FY 2013-2014; AND (3) AUTHORIZING THE BUDGET OFFICER TO MAKE NECESSARY ADJUSTMENTS TO THE BUDGET – Anne Bell, Management Analyst II, provided the staff report. Since the formation of the Tracy Consolidated Landscape Maintenance District (TCLMD), Council has annually reviewed and approved assessments based on the Engineer's Annual Levy Reports. The Council preliminarily approved the annual assessments proposed in the Engineer's Report on May 7, 2013.

Maximum assessment rates were previously approved by the original TCLMD property owners for the daily and long-term cyclical maintenance of landscape and appurtenances within the District. Included as a part of their and Council's approval was approval of the formula for increasing assessments for each future fiscal year by the lesser of 3% or the increase in the Consumer Price Index (CPI), San Francisco-Oakland-San Jose region. The percentage difference for the CPI applicable for FY 2012/2013 was 2.20%. Therefore, the maximum assessment rates allowed for FY 2013/2014 are proposed to be increased by 2.20% to enable Zones to receive appropriate levels of maintenance services.

Although maximum rates were approved by property owners, assessments levied for the assessable Zones are based upon the needs of each Zone within the standard of maintenance supported by each Zone and will not exceed the maximum amount approved by property owners. Based upon the estimated costs to maintain improvements within the TCLMD, as more particularly described in the Engineer's Report, staff recommended the assigned assessment rates found in Section IV, Appendix A ("Budget Fiscal Year 2013/2014") of the Engineer's Report. Of the 41 Zones, 22 Zones would be assessed the maximum assessment rates allowed, 14 Zones would be assessed at a level below their maximum rate due to lower operating costs, and 5 Zones would not be assessed due to a Home Owners Association providing maintenance, adequate reserves, no improvements, or the Zone providing a general benefit to the City of Tracy (such as Zone 38, Eleventh Street which is funded by the General Fund).

Because the proposed assessment rates for FY 2013/2014 are less than or equal to the maximum rates previously approved by voters, no ballot proceedings are required. If Council approves the Engineer's Report, the total revenue from assessments will be $2,640,190. The remaining revenues would be $150,000 from the Drainage Fund to cover the costs of storm channel related improvements, $242,734 from General Fund support for improvements that are largely general benefit, $190,000 from Gas Tax to support Zones that have arterial, median and right-of-way landscaping, and $940,159 from Zone Capital Reserves primarily for planned cyclical maintenance.

The total cost to maintain the TCLMD for FY 2013/2014 is estimated to be $4,163,083.

Staff recommended that Council approve the final Engineer's Report, order the levy and collection of assessments for FY 2013/2014, and authorize the Budget Officer to make necessary changes to the City budget.

Mayor Ives opened the public hearing. As there was no one wishing to address Council on the item, the public hearing was closed.

Council Member Rickman stated using a consumer price index which is based out of San Francisco was not a fair comparison. Council Member Rickman asked if staff was reviewing another option. Mr. Churchill indicated staff has been in discussions with the University of Pacific who plan to participate in a cost of living index research project by the Council for Community and Economic Research at a modest cost to the City. Mr. Churchill stated he hoped that Tracy would soon have its own cost of living index.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2013-084 approving the Engineer's Report regarding the proposed levy and collection of assessments for the Tracy Consolidated Landscape Maintenance District, FY 2013/2014, pursuant to the provisions of the Landscaping and Lighting Act of 1972; and authorizing the City's Budget Manager to make necessary adjustments to the City budget as necessary. Roll call vote found all in favor; passed and so ordered. Mayor Ives abstained from voting on Zone 24; Council Member Young abstained from voting on Zone 3; Council Member Manne abstained from voting on Zone 18.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2013-085 ordering the levy and collection of assessments within the Tracy Consolidated Landscape Maintenance District for FY 20132014. Roll call vote found all in favor; passed and so ordered. Mayor Ives abstained from voting on Zone 24; Council Member Young abstained from voting on Zone 3; Council Member Manne abstained from voting on Zone 18.

5. CONDUCT A PUBLIC HEARING TO ADOPT A RESOLUTION APPROVING THE UPDATED MASTER FEE SCHEDULE – Anne Bell, Management Analyst II, provided the staff report. In order to provide for a record of fees in a single document, improve public information, and provide consistent updating of the fees, Council previously approved the consolidation and annual updating of City-wide fees through a Master Fee Schedule (Schedule), with an automatic cost-of-living adjustment. The Schedule reflects fees charged for City services. It does not include the following types of fees and charges:

- Development Impact Fees adopted under the Mitigation Fee Act;
- Mitigation Fees (i.e., habitat and agricultural mitigation fees);
- Business License Fees (taxes);
- Enterprise Fund charges (water, sewer, storm water, airport, transit);
- Fees adopted under franchise agreements (cable franchise under TMC Chapter 8.10; franchise contractor for collection of solid and yard waste, and recycling under TMC Chapter 5.20);
- Landscape Maintenance District (special assessments);
- Fines (imposed as penalties);
- Leases of City property; and
- Rates established by separate agreements (i.e., Tracy Unified School District and performance artists).

The proposed, updated Schedule includes an automatic 2.4% adjustment, rounded to the nearest dollar (except where cents are already used) with the exception of: (1) Recreation fees (2) Cultural Arts and Grand Theatre fees; and (3) other fees indicated by an asterisk. Modifications to the Schedule also include the deletion of recreation fees due to program cancellations, the inclusion of Cultural Arts programs that were previously approved by Council but were inadvertently omitted from the prior Schedule update, and corrections of minor errors.

The fees set forth in the Schedule represent no more than the estimated reasonable cost, or actual cost, of the services or facilities provided. They do not exceed the City's cost and, in many cases, are far below the City's cost. The adoption of this Schedule is permitted under the California Constitution, Article XIIIC, including the exceptions under Article XIIIC, Section 1(e).

The City has given notice of the proposed Schedule update as required by Government Code Section 66016 to interested parties who filed a written request for such notice with the City. Notice has also been given by publication, pursuant to Government Code Sections 66018 and 6062a.

Adoption of the Schedule is not subject to the California Environmental Quality Act (CEQA) because it is not a project that has the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Cod of Regulations, §15061(b)(3)).

In the long-term, the annual updating of fees will continue to align fees more closely with the cost of the services being provided.

Staff recommended that Council adopt the resolution approving the updated Master Fee Schedule.

Council Member Manne asked for clarification regarding the differing Consumer Price Index (CPI) of 2.4% and 2.2%. Ms. Bell stated for consistency the landscape maintenance district was updated from December to December while other fees were updated from February to February and the percentage change represented the differential.

Council Member Manne indicated he would like to see the fees consistent with the changing of the CPI.

Council Member Rickman stated he was concerned with an automatic 2.4% increase in fees, versus the actual cost of service. Ms. Bell indicated the rates being increased are based on the index. Andrew Malik, Development Services Director, stated some fees do not recover the actual cost of service. Mr. Malik added that most of the Development Services fees were based on a time and motion study done some years ago, and are appropriate based on staff time needed to complete the particular task.

Council Member Rickman referred to a fee of $248 for an appeal to Council asking if it really cost that much.

Mayor Ives asked for an example of an appeal and its associated cost. Mr. Malik stated most appeal applications are a result of an applicant appealing a decision by the Planning Commission to City Council.

Council Member Rickman asked if the City could have a fee study done without spending thousands of dollars on a consultant. Mr. Malik indicated it usually involves the use of a consultant to do a time and motion study.

Mayor Ives asked if the basis for all fees was to recover costs. Mr. Malik stated yes.

Council Member Rickman asked how long it would take to have a study completed on program management fees. Mr. Churchill clarified that the price increase was an attempt to place value on various activities of the City and was not a financial boon for the City.

Council Member Rickman stated he has not been given any proof that the City is in the red on any of the fees.

Mayor Pro Tem Maciel asked if the 2.4% CPI was used in lieu of or an alternative to doing a hard analysis on approximately 1,000 different fees. Mr. Churchill indicated the study can be done, but that he could not provide an accurate reply at the dais. Mr. Churchill asked Council if their concern was the cost of doing business or the use of the CPI for determining increases.

Council Member Rickman indicated he did not believe anyone had a problem with paying a fee, but he wanted to be sure the fee was fair and was correct.

Council Member Rickman stated he had not heard that if the fees are not increased, the City would not be in the black. Mr. Churchill stated historically the City has subsidized Development Services for many years.

Council Member Rickman asked what the implications were if the fee increase was not approved. Mr. Churchill stated staff would have to come back with an analysis to quantify the amount of general fund support that would be needed.

Council Member Rickman asked how long it would take to have the Tracy CPI established. Mr. Churchill stated he hoped to return to Council in September with a report.

Ms. Bell added that the CPI was approved as part of the methodology for determining landscape maintenance fees by the original property owners and any change to that methodology could require a ballot measure.

Mayor Ives indicated the City would benefit from a local CPI; however, the cost of updating fees via a fee study may need to be looked at next year.

Council Member Manne indicated the CPI is appropriate to use as a measure, but he was concerned about the timing. Council Member Manne stated since the base line has not been looked at for 15 years, it may be time to look at it again.

Council Member Young asked if the fees were looked at annually. Ms. Bell stated the fees were consolidated in 2011, and for consistency the intent was to look at the fees annually.

Council Member Young indicated the report states fees were being adjusted automatically, but not all fees were being considered. Ms. Bell stated some fees could not be adjusted annually and are governed by statute.

Council Member Young asked if the recreation committee reviews the fees and programs. Ms. Bell indicated the Parks and Community Services Commission does review the fees and makes recommendations.

Rod Buchanan, Interim Director of Public Works, stated on an annual basis all fees are taken to the Parks and Community Services Commission after vetting out other local agencies and their fees. Mr. Buchanan stated some fees have to be negotiated with contractors for services.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adopt Resolution 2013-086 approving the updated Master Fee Schedule. Roll call vote found Council Member Manne, Young, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Rickman opposed. Motion carried 4:1.

Mayor Ives asked Council if staff should look into the cost of a complete fee study.

6. CITY COUNCIL AUTHORIZATION TO NEGOTIATE A DEVELOPMENT AGREEMENT WITH PROLOGIS, L.P. FOR APPROXIMATELY 1,200 ACRES OF LAND WITHIN URBAN RESERVE 6 AS IDENTIFIED IN THE CITY'S GENERAL PLAN, LOCATED EAST OF MOUNTAIN HOUSE PARKWAY AND NORTH OF SCHULTE ROAD, AND DISCUSSION AND DIRECTION RELATED TO PROPOSED DEVELOPMENT AGREEMENT TERMS – Bill Dean, Assistant Development Services Director, provided the staff report. State Law authorizes the use of Development Agreements (DA) (Government Code §65864-65869.5), which states in part that a DA is a means to, "strengthen the public planning process, to encourage private participation in comprehensive, long-range planning, and to reduce the economic costs of development."

In accordance with Council Resolution 2004-368, there are procedures and requirements for the consideration of Development Agreements. The City has entered into several DAs in the last 20 years for projects such as Tracy Gateway, the I-205 Specific Plan area, and residential projects including the Presidio and Ellis projects.

The benefit of a DA, from the City perspective, typically occurs when the City receives a defined public benefit, which it may not otherwise receive through standard conditions of project approval and implementation. Such benefits can take many forms. Benefits from the developer perspective may include, guaranteed land uses, provision of water and sewer utilities, and certainty that development requirements cannot be changed during the life of the agreement, e.g. zoning changes (unless one party defaults).

The first step in the DA process is to obtain Council authorization to negotiate, per Resolution 2004-368. Authorization for staff to negotiate a DA with property owners of the proposed Cordes Ranch Development occurred on September 6, 2011. Since that

time, the project changed owners and pursuant to the City's procedures, Council authorization to negotiate with the new owner is again required.

The principal drivers of negotiations have centered on strengthening the City's partnership with Prologis to facilitate implementation of the Specific Plan consistent with the City's vision and policies for Urban Reserve 6. The main concepts and terms in the proposed DA relate to creating an initial phase within the Specific Plan whereby Prologis would be able to utilize existing infrastructure, create an incentivized first phase, and benefit from increased flexibility related to participating in the City's development impact fee program and construction of infrastructure.

The DA would cover approximately 1,200 acres owned by Prologis. Original Council direction related to negotiating a DA was with the four main property owners of the approximately 1,780 acre Cordes Ranch Specific Plan area. Prologis purchased a majority of the property in the Specific Plan area (approximately 1,200 acres), and the remaining property owners have requested not to be parties to the DA, mainly because of the City's requirement that a DA be jointly and severally liable between all parties.

The DA is a contract that would last 25 years.

Prologis would obtain certainty that the land use rules and regulations in effect when the Specific Plan and DA are approved (such as the zoning) would not change during the life of the DA.

The City would agree to provide limited water supply to the Prologis property from existing water sources. Prologis' remaining water needs will be provided from new sources purchased by City units with all costs borne by Prologis.

The City would allow Prologis to use a portion of excess capacity from its existing 24-inch water transmission line to its property, subject to availability to ensure that the City can meet its commitments for use by other projects/developments. The temporary use of this capacity does not affect the requirement that Prologis fund its full water supply and conveyance obligation.

The City would allow Prologis to use a portion of the existing excess capacity in the City's Hansen Sewer line, which currently serves the Patterson Pass Business Park and other properties within the City limit and in its sphere of influence. The use of this existing capacity does not affect the requirement that Prologis fund its full wastewater conveyance obligation.

The City would make available to Prologis 0.145 million gallons per day of wastewater treatment capacity at the existing Wastewater Treatment Plant (WWTP) to enable the Specific Plan project to get started. The City would further allow Prologis to develop an amount of acreage within its holdings at Cordes Ranch served by this initial allocation as long as Prologis pays the wastewater development impact fees for each development in accordance with the ultimate land uses of that property. Prologis would provide the City with initial funding to expand the City's WWTP. The upfront funding will facilitate the construction of the next phases of the WWTP expansion. Once the purchased capacity has been allocated to proposed developments within the specific plan in accordance with the ultimate land uses, Prologis will be part of the next phase of WWTP expansion. The

use of this existing capacity does not affect the requirement that Prologis fund its full wastewater treatment obligation.

The first 600 acres of the specific plan project will pay a reduced negotiated development impact fee. The amount of this reduced fee will be added to development impact fees to be paid by the remainder developments within the DA area.

The DA would enable Prologis to satisfy its obligation for funding the construction of program infrastructure by permitting Prologis to construct certain program infrastructure, such as program roadways within its site, in lieu of paying the full amount of City Development Impact Fees. Prologis will provide guarantees and securities for such infrastructure to the satisfaction of the City. The City would still retain a portion of the fees under such a DA program in order to provide necessary plan check, construction management, and inspection services in order to ensure that all design and construction of infrastructure meets adopted City standards.

In exchange, Prologis would pay the City $5 million within three years of annexation to fund community benefit projects, such as aquatics or other sports, of the Council's choice.

After Council input and direction on the main Cordes Ranch Specific Plan project and the proposed Prologis DA, a Draft DA will be published for Planning Commission review. A Draft Specific Plan and General Plan Amendment have also been prepared and reviewed with the Planning Commission in study session over the last two years and with the Council as part of regular Council agendas. An Environmental Impact Report (EIR) was prepared and circulated for review. Staff will respond to comments received which will be published prior to Planning Commission and Council hearings on the proposed Cordes Ranch Specific Plan project and the Prologis DA in late summer 2013.

The City entered into a Cost Recovery Agreement with the owners group in March, 2011, providing the mechanism for the City to recover all staff and consultant costs associated with the project applications.

Staff recommended that Council direct staff to negotiate a DA with Prologis, LP and provide any direction necessary to conclude DA negotiations.

Council Member Manne stated that in his role as a Planning Commissioner, he made recommendations on the application, and asked if it was appropriate for him to participate in these discussions. Dan Sodergren, City Attorney, indicated it was appropriate for Council Member Manne to participate.

Mayor Pro Tem Maciel asked if Council was only discussing 1,200 acres of the project. Mr. Dean stated property owners of the other parcels may approach staff for a development agreement, but staff did not anticipate receiving anything in the near future.

Dan Letter, responsible for development and investment property for the northwest region for Prologis, provided a background of the company. Mr. Letter stated cooperation from City staff was excellent.

Mayor Ives invited members of the public to address Council on the item.

Robert Tanner, 1371 Rusher Street, asked if there was a plan and timetable for the remaining 500 acres. Mr. Dean stated the concept of Cordes Ranch has not changed and that Prologis was only involved in the 1,200 acres. Mr. Dean added that the other property will not be subject to this agreement and those property owners may pursue development in the future. Andrew Malik, Development Services Director, added that staff was in active discussions with the remaining property owners.

Mayor Ives asked if the Prologis property was located at the Capital Park area of the map. Mr. Dean stated yes.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to direct staff to negotiate a Development Agreement with Prologis, LP for approximately 1,200 acres of land within Urban Reserve 6 as identified in the City's General Plan, located east of Mountain House Parkway and north Schulte Road. Voice vote found all in favor; passed and so ordered.

7. ITEMS FROM THE AUDIENCE – Dave Helm addressed Council regarding disparaging comments made by particular residents about the City and staff, indicating he found the comments offensive.

8. STAFF ITEMS

A. Receive and Accept the City Manager Informational Update – Leon Churchill, Jr., City Manager, provided the staff report. Council accepted the informational update.

9. COUNCIL ITEMS

A. Appoint an Applicant to the Transportation Advisory Commission – Council Member Manne indicated he and Council Member Rickman interviewed six applicants. It was moved by Council Member Manne and seconded by Council Member Rickman to approve the subcommittee's recommendation and appoint Bruce George to the Transportation Advisory Commission to full the remainder of a vacated term, which will begin on June 5, 2013, and end on April 30, 2015. Voice vote found all in favor; passed and so ordered.

B. Consider Naming the Tracy Police Department Fire Arms Training Facility after Former Captain John Serpa – Maria Hurtado, Assistant City Manager, provided the staff report. At the April 16, 2013 Council meeting, Mayor Pro Tem Maciel requested and Council agreed to place an item on a future Council agenda to discuss naming the Tracy Police Department Fire Arms Training Facility after John Serpa.

John Serpa served with the Tracy Police Department and retired as Captain after 20 years of service. During his service with the Tracy Police Department, John Serpa single-handedly arranged to have the area now known as the Police Fire Arms Training Facility excavated and volunteered numerous hours to ensure completion of the facility.

Additionally, John Serpa was involved with various local organizations and personally helped found local groups. For example, John Serpa was an accomplished marksman and was instrumental in forming the Tracy Pistol Team. In 1962, John Serpa and fellow officers A. VanderMeer, A. Hall, C. Brooksher, and J. Cadle, competed and won the State Pistol Championship. John Serpa was instrumental in creating and training the shooting team in Tracy. In 1965, Tracy began hosting the State Championship one weekend per year until approximately 1975.

John Serpa was also a World War II Veteran and served as President of the Tracy War Memorial Association, which he helped found in 1987. John Serpa was often the key note speaker at Veterans Day and Memorial Day events held in Tracy.

John Serpa was a member of the Tracy Rotary. He was also Area, Regional, and Honorary National Past Commandant of the Marine Corps League. Mr. Serpa served on the San Joaquin County Civil Grand Jury, the County Board of Zoning Adjustments, and was President of the Interstate Highway Association for ten years.

Mayor Pro Tem Maciel added that he had the privilege of getting to know Mr. Serpa long after his service to the City.

Mayor Ives invited members of the public to address Council. There was no one wishing to address Council on the item.

Council Members Rickman and Young indicated they concurred with the recommendation.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to name the Tracy Police Department Fire Arms Training Facility after Former Captain John Serpa. Voice vote found all in favor; passed and so ordered.

Council Member Young invited everyone to the Juneteenth Celebration hosted by the Tracy African American Association, on Saturday, June 8, 2013, from 10:00 a.m., to 5:00 p.m. at Lincoln Park. Council Member Young stated the event was free and open to the public.

Council Member Rickman thanked the Costa family for their efforts in putting together the Portuguese Festival held June 1 and June 2, 2013.

Council Member Rickman asked when an item would return to Council regarding program management fees. Mr. Churchill stated community outreach was scheduled the week of June 10, 2013, and that he would update Council on the outcome of that outreach.

10. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adjourn. Voice vote found all in favor; passed and so ordered. Time 9:07 p.m.

The above agenda was posted at the Tracy City Hall on May 30, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

_____
Mayor

_____
City Clerk

TRACY CITY COUNCIL	SPECIAL MEETING MINUTES
June 4, 2013, 6:15 p.m.	
City Council Chamber, 333 Civic Center Plaza	*Web Site:* www.ci.tracy.ca.us

1. CALL TO ORDER - Mayor Ives called the meeting to order at 6:15 p.m. for the purpose of a closed session to discuss the items outlined below.

2. ROLL CALL - Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

3. ITEMS FROM THE AUDIENCE – None.

4. REQUEST TO CONDUCT CLOSED SESSION -

   I. Real Property Negotiations (Gov. Code, § 54956.8)

   - Property Location: City-owned Fuel Facility located at the Tracy Municipal Airport (5749 South Tracy Boulevard).

     Negotiator(s) for City: Rod Buchanan, Interim Public Works Director

     Negotiating Parties: Representatives of the Turlock Air Center, LLC dba Tracy Air Center

     Under Negotiation: Price and terms of payment for the lease of the property

   II. Initiation of Litigation (Gov. Code, § 54956.9(d)(4))

   - One case

   III. Pending Litigation (Gov. Code, § 54956.9(d)(1))

   - *TRAQC v. City of Tracy, et al.* (San Joaquin County Superior Court Case No. 39-2009-00201854-CUWM-STK; Court of Appeal Case No. C069741)

5. MOTION TO RECESS TO CLOSED SESSION – Council Member Rickman motioned to recess the meeting to closed session at 6:16 p.m. It was seconded by Mayor Pro Tem Maciel. Voice vote found all in favor; passed and so ordered.

6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 6:57 p.m.

7. REPORT OF FINAL ACTION – In the case of TRAQC v. City, the City Council authorized dismissing the appeal pending in the 3rd District Court of Appeal (Case No. CO69741).

8. ADJOURNMENT – It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adjourn the meeting. Voice vote found all in favor; passed and so ordered. Time: 6:58 p.m.

The above agenda was posted at City Hall on June 3, 2013. The above are action minutes.

_____
Mayor

ATTEST:

_____
City Clerk

TRACY CITY COUNCIL	REGULAR MEETING MINUTES
June 18, 2013, 7:00 p.m.	
City Council Chambers, 333 Civic Center Plaza	*Web Site:* www.ci.tracy.ca.us

Mayor Ives called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

The invocation was offered by Deacon Jack Ryan.

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

Mayor Ives presented a Certificate of Appointment to Bruce George to the Transportation Advisory Commission.

Russ Ramirez, Vice President, AAA Northern California, and Jane Drymon, AAA Tracy Branch Manager, presented a $5,000 check to Firefighters Jeremy Ward, Ben Moreno, and Senior Explorer Miguel Beltran, for the Tracy Fire Explorers program.

1. CONSENT CALENDAR

Following the removal of items 1-D and 1-E by staff; 1-C and 1-F by Council Member Young; and item 1-I by a member of the audience; it was moved by Council Member Rickman and seconded by Council Member Manne to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.

A. Approval of Minutes – Special meeting minutes of April 8, 2013, and April 16, 2013, were approved.

B. Authorize a Professional Services Agreement with MHD Group, Inc., for Graphic Design and Marketing Services for the Cultural Arts Division and the Grand Theatre Center for the Arts and Authorize the Mayor to Execute the Professional Services Agreement – Resolution 2013-087 approved the Agreement.

G. Adoption of the Fiscal Years 2013/2014 and 2014/2015 Strategic Priorities Which Include Public Safety, Quality of Life, Governance and Economic Development - Resolution 2013-088 adopted the Strategic Priorities.

H. Approve a Roadway Construction and Reimbursement Agreement (RCRA) with Prologis Logistics Services Incorporated for the Construction of Roadway Improvements on Skylark Avenue from the Prologis Park Tracy – Phase 2 Site to Grant Line Road, and Authorize the Mayor to Execute the Roadway Construction and Reimbursement Agreement - Resolution 2013-089 approved the Agreements.

C. Approval of a Professional Services Agreement with Sycamore Landscaping Corporation for Landscape, Parks, and Channelways Maintenance and Authorize the Mayor to Execute the Agreement - Connie Vierra, Management Analyst, provided the staff report. On March 21, 2013, staff issued a Request for Proposals for Landscape, Parks, and Channelways Maintenance. The proposals were for maintenance of Fully Funded Zones, Under Funded Zones, and

Channelways within the Landscape Maintenance District (LMD) with the possibility of new landscaping being added to the agreement at a later date.

Previously, LMD maintenance had four separate contracts: Fully Funded, Under Funded, Eleventh Street, and Channelways. This new agreement will be combining all four contracts into one agreement. This agreement will have various Scopes of Work which will apply to all Zones, Fully Funded Zones, Under Funded Zones, and Channelways. By having only one agreement, it will provide the City with consistency in supervising differing maintenance levels commensurate with funding.

In addition to the landscape maintenance services in the LMD, additive bid items for landscape maintenance are included for the Fully Funded and Under Funded Zones. These additives are performed as requested and are for specific tasks that include dethatching of turf areas, aeration of turf areas, fertilizing, ground cover and shrub maintenance including pruning, median maintenance, and spraying of broadleaf weeds.

The City received proposals from four potential contractors: Sycamore Landscaping Corporation, Dominguez Landscape Services Inc., Marina Landscape Inc., and TerraCare Associates LLC. Staff reviewed all proposals submitted for Landscape, Parks, and Channelways Maintenance. In comparing the detailed costs submitted to the price per square foot submitted by each potential contractor, only two contractors were consistent in their pricing, which coincidentally were the two contractors with the lowest base proposals. Both of those contractors were contacted to discuss if there was a potential of adjusting the proposed prices. One contractor (Marina Landscape Inc.) was not able to adjust the price of the proposal. The other contractor (Sycamore Landscaping Corporation) was able to lower the proposal costs by 12%. This adjustment will bring the base price for Sycamore to $500,000. The actual price for additives will vary based on the need of the City for various additives.

Upon approval, the initial term of the agreement will be from July 1, 2013 through June 30, 2016. In the event that the City determines that the contractor has satisfactorily performed all requirements in this agreement, and per recommendation from the Public Works Director to the City Manager, the City Manager may extend the agreement for two additional two year terms.

A majority of the funding for this agreement will come out of the LMD Fund. The remainder funding for the maintenance of Zone 38 will come from the General Fund. However, sufficient funds have been appropriated in the Fiscal Year 2013/2014 budget that Council adopted on June 4, 2013.

Staff recommended that Council approve a three year Professional Services Agreement with Sycamore Landscaping Corporation for services required for Landscape, Parks, and Channelways Maintenance and authorize the Mayor to execute the agreement.

Council Member Young asked why funding for Zone 38 comes from the General Fund instead of the LMD Fund. Ms. Vierra stated certain areas zoned as General Fund areas and not part of the LMD, receive funding from the General Fund. Anne Bell, Management Analyst, added that areas in the City that provide

a general overall benefit cannot be funded by assessment districts and must be paid for by another source.

Council Member Young asked who the current contractor was. Ms. Vierra indicated Sycamore Landscaping Corporation. Council Member Young commended staff for negotiating a lower contract.

Mayor Ives invited members of the public to address Council on the item.

Trina Anderson addressed Council stated she lives in zone 17 near the Sycamore Village Apartments. Ms. Anderson stated the area is poorly maintained, has broken sprinklers, and overgrown trees. Rod Buchanan, Interim Director Public Works, stated the new contract identifies specific performance measures that will allow the City to hold the contractor accountable.

Dave Anderson, 1940 Earl Way, asked that the Sycamore Village area be cleaned up. Mayors Ives clarified that the contract covered the entire City and not just the Sycamore Village area.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adopt Resolution 2013-090 approving a three year Professional Services Agreement with Sycamore Landscaping Corporation for services required for Landscape, Parks, and Channelways Maintenance. Voice vote found all in favor; passed and so ordered. Mayor Ives abstained from voting on Zone 24, Council Member Manne abstained from voting on Zone 18; Council Member Young abstained from voting on Zone 3

D. Receive Update on the Tracy Municipal Airport Pavement Project and Confirm Staff Direction on Runway Design – Leon Churchill, Jr., City Manager, prefaced that items 1-D and 1-E were inadvertently placed on the consent calendar. Rod Buchanan, Interim Public Works Director, provided the staff report.

On October 18, 2011, Council held a joint meeting with the Transportation Advisory Commission. During this meeting a list of items were presented to Council as potential improvement items for the Tracy Municipal Airport. One of those items was to confirm the length of Runway 12/30. Staff surveyed Runway 12/30 and found that the runway's physical length was actually 3,999 feet and if minor patching was completed, the runway could be calculated at 4,000 feet. Staff also found that Runway 12/30 had been mismarked during the past pavement slurry seal project. The actual marked distance was calculated at 3,996 feet. A NOTAM (Notice to Airmen) was immediately filed on January 19, 2012, to alert pilots to those conditions.

On January 17, 2012, staff presented an update on the Airport Improvement Options. At that meeting, Council was notified of the conditions and actions by staff relative to Runway 12/30.

On May 15, 2012, staff presented another update on the Airport Improvement Options. At this meeting, Council directed staff to work towards returning Runway 12/30 to 4,000 feet. On October 2, 2012, staff completed the necessary work to return the Runway 12/30 to 4,000 feet and cancelled the previous NOTAM.

Staff has been pursuing grant funding from the Federal Aviation Administration to permanently rehabilitate all pavement surfaces at the Tracy Municipal Airport.

Reinard W. Brandley, consulting Airport Engineer, was hired by the City as an airport consultant. A Pavement Evaluation Study for the Tracy Airport has been completed indicating the need for pavement rehabilitation and the design is currently underway for all pavement areas at the airport. The Airport Pavement Project is important to achieve the goal of a higher quality Airport to support commerce and recreational aviation needs.

Through the design process, the Federal Aviation Administration (FAA) has informed the City that the Airport's current runway and taxiway widths of 100 feet and 40 feet respectively, exceed the FAA standard widths that are available for funding for our airport classification. FAA grant funding will only cover a width of 75 feet for the runways and 35 feet for the taxiways. If the City wishes to keep the runways and taxiways at the current widths, the City would have to pay the difference. Staff recommends adjusting the pavement design to meet the FAA standards in order to achieve full funding from the FAA.

The runways are being completely reconstructed and brought up to current standards, including safety standards. It is anticipated that through the pavement design process, runway 12/30 will now be 75 feet wide and 3,997 feet long in the final design. The overall impact of the above runway changes to the airport operations is minimal. A runway length of 3,997 is compatible with existing operations and planned development at the airport. These changes will alter the land use surrounding the airport.

The 2011 California Airport Land Use Planning Handbook (CALUPH) designates different land use planning guidelines for development surrounding airports based in part on runway length as categorized below:

Less than 4,000': Small Airport
4,001' to 5,999: Medium Airport
6,000' or more: Long Airport

In 2009, the San Joaquin Council of Governments, acting as the Airport Land Use Commission (ALUC), determined that the Tracy Municipal Airport (TMA) did not meet the criteria for a "Medium" or "Small" Airport designation. The ALUC determined that a hybrid land use planning designation would be appropriate for the TMA. If the runway is changed, then the TMA would meet the length criteria for a Small Airport designation as outlined in the CALUPH instead of the existing hybrid from the ALUC. Such a designation would be pursued through a request to the ALUC, and if approved, would change the land use surrounding the airport to be in line with a Small Airport designation.

As part of the Fiscal Year 2013/14 CIP budget, Council approved matching funds for the first phase of the pavement project. A reduction in project costs may result from the width reduction. It is unknown at this time how much FAA grant funding, if any, will be available to the City. The City will receive notification of funding status in July or August.

Staff recommended that City Council receive the update on the Tracy Municipal Airport Pavement Project and confirm staff direction on runway design.

Mayor Ives stated supplemental information was received by Council from the Aircraft Owners and Pilots Association (AOPA) and Dave and Trina Anderson.

Council Member Manne asked if the matching funds allocated by Council was dependent on the FAA's funding. Mr. Buchanan stated if the FAA did not give the City funding, the matching funds would not be needed. Council Member Manne asked if the funding was based on a width of 140 feet versus 75 feet. Mr. Buchanan stated no, and it was possible that the FAA would come back with less funding because of the reduced runway width.

Mayor Pro Tem Maciel asked if there was a "Plan B" should the FAA not grant funding. Mr. Buchanan stated the project would be considered through the Capital Improvement Project (CIP) process.

Mayor Ives invited members of the public to address Council on the item.

John Favors addressed Council regarding the runway length and the need for it to remain at 4,000 feet. Mr. Favors asked Council and staff address some of the misinformation.

Steve Nicolau provided Council with a handout entitled "Instrument of Transfer" and provided a history of the document and the Airport. Mr. Nicolau suggested that the GSA may object to decreasing the airport runway length and recommended keeping the airport runway at 4,000 feet.

John Anderson addressed Council stating he understood the need to shorten the width of the runway to 75 feet, but was unclear why it was determined that the length needed to be decreased as well. Mr. Anderson stated he did not support shortening the runway length and stated safety buffers must be maintained.

Dave Helm addressed Council regarding incompatible uses surrounding the runway and voiced his support in keeping the runway length at 4,000 feet.

Chris Long, Surland Companies, 1024 Central Avenue, addressed Council indicating it was important to work together as good neighbors. Mr. Long stated they support the design of the Airport Pavement Project. Mr. Long indicated that all development standards of the Ellis project will comply with Federal and State guidelines.

George Riddle addressed Council noting his disappointment that runway length was being discussed again.

Trina Anderson indicated she believed they could work with the developer and develop and good working relationship. Ms. Anderson stated she did not believe there was a rush to approve this item suggesting a decision be postponed until a response from the FAA can be obtained.

Steve Stumer, Tracy Airport, indicated he was in support of harmony between the community, developers and the Airport Association. Mr. Stumer indicated funding was key, asking that Council do whatever was necessary to improve the runway.

Mayor Ives asked if there was a time constraint. Mr. Buchanan stated he anticipated funding in July or August 2013. Mr. Buchanan added that Council already approved the design of the pavement areas which are currently underway. Mr. Buchanan stated in order to obtain funding this year, the FAA would like the design complete. Mr. Buchanan added that the design consultant is waiting for direction on the final runway design, and that once funding is received, the City can begin work and improve runway conditions.

Mayor Ives asked if staff spoke with the FAA regarding the length of the runway as well. Mr. Buchanan stated staff has been in discussions with the FAA who approves leases, airport master plans and airport layouts to ensure the City's plans are consistent with the approved master plan.

Mayor Ives asked if the FAA voiced any objections when staff issued the NOTAM. Mr. Buchanan stated no.

Mayor Ives asked if the standard width for a runway length of approximately 4,000 feet was 75 feet. Mr. Buchanan stated the width has to do with the classification of airports; the City of Tracy is only eligible for Category B funding.

Mayor Ives asked for clarification regarding prospects for FAA funding relative to the length of the runway. Mr. Buchanan stated he has spoken with the FAA regarding design parameters, safety issues, object free areas, demarcation, and the available area within the airport. Mr. Buchanan stated based on those facts/conditions, was why the 3,997 length was being proposed.

Mayor Ives asked if there was any affect over the potential for receiving FAA grant funding relative to the length. Mr. Buchanan stated no. Mr. Buchanan stated if a problem arises, the City could act quickly.

Council Member Rickman asked if the length of the runway had anything to do with funding. Mr. Buchanan stated the FAA has not stated the length is an issue; they commented on the width.

Council Member Manne asked if the design consultant was on hold until the width of the runway was determined. Mr. Buchanan stated the length and width needed to be determined.

Mayor Pro Tem Maciel indicated he supports the Airport and has never heard anything from this Council or former Councils regarding closing the Airport. Mayor Pro Tem Maciel stated he was in support of staff's recommendation.

Council Member Young asked what the deficiencies were for the Airport falling into the designation of a hybrid airport. Mr. Buchanan stated the Airport was approximately 4,000 - 4,002 feet in length and at one point the Airport Land Use Commission decided they wanted to look at it in terms of compatibility. The

Airport Master Plan, done in 1998, also had the Airport listed as a hybrid and could have chosen a medium sized Airport then. Mr. Buchanan further stated an Airport that is right in the middle doesn't meet either small or medium which is why they decided to do a hybrid.

Council Member Young stated what seemed to be before the Council was to look at the Airport's operational use to ensure we have the best Airport possible and obtain the funding necessary to improve our Airport. Council Member Young indicated she was in support of staff's recommendation.

Council Member Rickman asked if there was any change in the type of plane that could land or take off. Mr. Buchanan stated in general, no. Council Member Rickman asked if corporate jets could land at the Tracy Airport. Mr. Buchanan stated yes.

Mayor Ives stated the best thing the City can do for the Airport is obtain funding.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to accept the report and direct staff to proceed with the necessary runway adjustment at the Airport to meet FAA standards in order to achieve full funding from the FAA. Voice vote found all in favor; passed and so ordered.

E. Approve Amendment Number 1 to the Fuel Sales Operator and Fuel Facility Lease Agreement between the City of Tracy and Turlock Air Center, LLC. doing Business as Tracy Air Center, and Authorize the Mayor to Sign the Amendment - Ed Lovell, Management Analyst, provided the staff report. This amendment establishes a new increased fuel flowage fee, which is the rate for which the minimum annual payment of $50,000 is based. This amendment also removes the City established requirement to have fuel prices at a certain level in relation to surrounding airports.

The amendment modifies the lease extension option so that the lessee has the option to extend the agreement so long as there is no uncured default. A deadline was also set for the lessee to pay for the recoverable fuel that was transferred from the City at the beginning of the lease. The language for returning a portion of the security deposit was also changed so that the lessee will get a portion of the deposit back as long as there is no uncured default by December 31, 2013. The portion of the security deposit returned back to the lessee will be used to pay for a portion of the recoverable fuel that was transferred at the beginning of the lease. The lessee will also have a deadline in which to pay the $3,000 owed for installation of an electrical meter. Added to the amendment was a section stating that if the City decides to move the fuel facility to another location, that the City would be responsible for all costs of doing so. The changes in this agreement do not change the minimum annual payment of $50,000 to the City which is part of the budgeted revenue for the Airport Fund.

Staff recommended that Council approve Amendment 1 to the Fuel Sales Operator and Fuel Facility Lease Agreement between the City of Tracy and Turlock Air Center, LLC doing business as Tracy Air Center, and authorize the Mayor to sign the Amendment.

Mayor Ives invited members of the public to address Council on the item.

Trina Anderson addressed Council stating a $50,000 fee before you can begin business doesn't seem like a very good business plan. Ms. Anderson indicated there was an expensive fuel system in place and it didn't appear that the City was charging rent to use the system. Mr. Buchanan indicated consideration for the existing equipment which is approximately 12 years old, is that Mr. Stumer's business will take care of repairing the equipment as it disintegrates and replacing it at the end of its life cycle.

Ms. Anderson stated based on her research she did not believe Turlock Air Center had a valid hazardous permit or a Spill Prevention Control (SPC) plan on file and would like to have it added. Ms. Anderson also stated Mr. Stumer fails to keep adequate inventory of fuels on hand. Ms. Anderson indicated since January 1, 2012, Mr. Stumer has not paid any money to the City, nor has he paid anything for the $40,000 worth of fuel he sold which belonged to the City.

Mayor Ives asked for clarification regarding a hazardous material permit. Mr. Buchanan indicated he could not speak regarding Turlock Air and invited Mr. Stumer to respond.

Mr. Stumer indicated they do have SPC plans and a hazmat certificate or the State would shut them down.

Mayor Ives asked about the City's fuel. Mr. Buchanan indicated staff believes they have come up with a viable plan to assist Mr. Stumer with his losses over the last year and one half and to secure long term funding for the Airport. Mr. Buchanan stated one of Council's major considerations was to have a balanced budget for the Airport. Mr. Buchanan stated this agreement represents a way to accomplish that task; it's sequential, in writing, and a term of the new lease.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adopt Resolution 2013-091 approving Amendment 1 to the Fuel Sales Operator and Fuel Facility Lease Agreement between the City of Tracy and Turlock Air Center, LLC doing business as Tracy Air Center, and authorizing the Mayor to sign the Amendment. Voice vote found all in favor; passed and so ordered.

F. Annual Review of City's Investment Policy and Recommendation to Accept this Policy with No Changes - Robert Harmon, Senior Accountant, provided the staff report. The City has an adopted investment policy that provides guidance regarding the investment of City funds which is consistent with the State. Annually the City Treasurer reviews this policy with support from its registered investment advisors for any changes that would require amendment to the investment policy.

At the January 28, 2013, meeting of the Investment Review Committee, the City Treasurer reviewed the City Investment Policy (Council Policy B-6) with the committee and recommended no changes.

Mr. Harmon indicated the City Treasurer recommends that Council accept the existing City Investment Policy (Council Policy B-6) with no changes.

Mayor Ives invited members of the public to address Council. There was no one wishing to address Council on the item.

Council Member Young referred to idle and surplus funds stating Council received monthly investment reports.

It was moved by Council Member Young and seconded by Council Member Rickman to adopt Resolution 2013-092 accepting the existing City Investment Policy (Council Policy B-6) with no changes. Voice vote found all in favor; passed and so ordered.

I. Reject Non-Responsive Low Bid from BC Construction Company of Ceres, California, Award a Construction Contract for the Police Firearms Practice Range Restroom Building CIP 71072C to the Second Lowest Responsive Responsible Bidder, Southland Construction from Pleasanton, California, and Authorize the Mayor to Execute the Contract

Paul Miles asked if approval of a pre-fab building was required, and what the City was getting in exchange by going to the next higher bid at an additional cost of $18,000. Kuldeep Sharma, City Engineer, indicated the bid documents required the contractor to provide an approved pre-fabricated building, and to comply with State and local bidding requirements. Mr. Sharma indicated the lowest bidder took an exception in order to receive approval, and by doing so their bid became non-responsive.

Mayor Ives asked if the proposed building had a physical difference or if it was a nuance. Mr. Sharma stated there was no physical difference; the difference was the approval process. Dan Sodergren, City Attorney, added the competitive bidding process set up by State law indicates if there is a variance in the bid documents, the City can waive certain variances, but if it creates an unfair advantage then the City has to declare the bid as non-responsive.

Mayor Ives invited members of the public to address Council. There was no one wishing to address Council on the item.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adopt Resolution 2013-093 rejecting the non-responsive low bid from BC Construction, awarding a construction contract for the Police Firearms Practice Range Restroom Building - CIP 71072C, to second lowest bidder, Southland Construction of Pleasanton, California, in an amount not-to-exceed $156,425, and authorizing the Mayor to execute the contract. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Trina Anderson addressed Council regarding the last Young Eagle Flights event for youth ages 8-17 years. Ms. Anderson stated the next event was scheduled for July 13, 2013, and that interested individuals could contact her at dntanderson@email.com for more information.

Paul Miles addressed Council regarding previous comments provided at the March 5, 2013, Council meeting by Steve Abercrombie.

Mayor Pro Tem Maciel encouraged anyone who had concerns regarding Mr. Miles' complaints to visit his website.

John Favors provided Council with a handout entitled "Getting the Word Out", inviting residents to the Tracy Airport Open House 84th Anniversary and Independence Celebration to be held June 29, 2013, at the Tracy Municipal Airport.

3. ACCEPT ANNUAL REPORT OF THE MEASURE E RESIDENTS' OVERSIGHT COMMITTEE – Anne Bell, Management Analyst, introduced the members of the Oversight Committee.

Archie Bakerink, Chairperson, presented a summary of the Measure E Annual Report including a discussion on roles and responsibilities, financial analysis, and Committee conclusions and recommendations.

The Committee reported receipts of $5,910,308 in Measure E revenue in fiscal year ending June 30, 2012. This amount was deposited in the City's General Fund. Chairperson Bakerink pointed out that official City income statements mask the extent of City's General Fund structural deficit which is bolstered by an average $6 million annually in Measure E tax revenues. To align expenditures with revenues and achieve the goal of a structurally balanced General Fund budget by fiscal year 2016/17, the City needs to additionally reduce annual expenditures by an average of $2.3 million.

For FY 2012/13, the City is projecting revenues of $49.98 million and expenditures of $50.89 million, resulting in a projected deficit of $0.91 million. However, non-Measure E revenues of $43.88 million and expenditures of $50.89 million result in a projected structural deficit of $7.01 million.

The Committee recommended Council: 1) In years of General Fund surplus, reserve surplus in special fund; 2) Prepare Non Measure E financial statements and forecasts; and 3) Continue to explore additional cost reduction and revenue enhancement strategies to align General Fund revenue and expenditure levels in anticipation of the expiration of Measure E in the year 2016.

Mayor Ives stated the Committee did a good job pointing out what Council knew and has ensure everyone knows the budget deficit has not been solved yet. Mayor Ives stated Council is clear at guiding Mr. Churchill in achieving a balanced budget.

Mayor Ives thanked the Committee for the report and their perspective.

Council Member Manne stated the report represented a fair assessment. Mayor Pro Tem Maciel added that information received from staff is consistent with what has been presented. Council Member Rickman thanked the Committee for their service and report.

Mayor Ives invited members of the audience to address Council. There was no one wishing to address Council on the item.

Council Member Manne asked if it was possible to establish a special fund as recommended by the Committee. Leon Churchill, Jr., City Manager, indicated Measure E funds are general revenue. Mr. Churchill stated the Committee's recommendation has great bearing on a future Council discussion regarding revenues in excess of expenditures.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to accept the annual report of the Measure E Residents' Oversight Committee. Voice vote found all in favor; passed and so ordered.

4. APPROVE CONCEPT PLANS FOR THE PROPOSED ANIMAL SHELTER FACILITY, CIP 71064 – Kuldeep Sharma, City Engineer, provided the staff report. The City's existing Animal Shelter is located on Arbor Road between Holly Drive and MacArthur Drive east of the City's Waste Water Treatment Plant. The existing facility is approximately 4,200 square feet in covered area comprising a modular office, administrative space, and indoor and outdoor area for the animals. Tracy's new Animal Shelter will be located at the south west corner of Grant Line Road and Paradise Road on a City owned 2.19 acre parcel.

On April 2, 2013, Council approved a Professional Services Agreement with Indigo Hammond and Playle Architects of Davis, California to prepare plans, specifications and cost estimates for the first phase of the Animal Shelter Project. The consultant, after meeting with staff and stakeholders, discussed and prepared the project concept plans. Two meetings were held to solicit input and comments from the general public and various interest groups.

The proposed Animal Shelter Facility will be approximately 12,000 square feet at build out. This project is the first phase of the Animal Shelter Facility and will include approximately 6,000 square feet and will include an office area, animal holding areas, storage, a get acquainted area, restroom, laundry room, intake areas, euthanasia room, and other site improvements to provide a fully functional shelter facility. Phase 2 will expand the shelter by increasing the animal holding areas and by providing other animal care amenities as needed. The modular building concept used for this project provides the option to construct future expansions of this facility in one or multiple phases in a cost effective manner.

Mr. Sharma introduced the architectural team and Bruce Playle provided a power point presentation outlining features of the project.

There is no impact to the General Fund. The Animal Shelter Project - CIP 71064 is a fully funded approved Capital Improvement Project in the FY 2012-13 budget.

Staff recommended that Council approve the concept plans for the Animal Shelter Facility which will enable the consultant to proceed with detailed design and preparation of construction documents.

Council Member Manne indicated he would like to see veterinary services included in Phase 1. Mr. Sharma indicated that possibility had not been considered at this point.

Mayor Pro Tem Maciel asked if the veterinary services meant the City was providing the facility or paying for the veterinary services. Gary Hampton, Police Chief, indicated the

area in Phase 2 for veterinary services represents a move to bring services to the animals versus bringing animals to veterinary services. Police Chief Hampton indicated the City currently contracts with various veterinaries in the City for services to animals in the City's care. Police Chief Hampton stated the plan is to provide spay and neuter services at the new facility; how those services will be provided has not been studied. Police Chief Hampton further stated the items identified in Phase 1 have been considered essential to the operation of the facility.

Mayor Pro Tem Maciel asked if the plan would work for Mr. Miller and staff. Mr. Miller stated yes.

Council Member Manne asked what a "cattery" was. Mr. Playle stated a cattery is a place to hold cats.

Mayor Ives asked if there were other holding facilities for animals other than dogs or cats for emergency services. Mr. Playle stated other cages are available where they could be housed.

Mayor Ives asked what the budget for this item was. Mr. Sharma indicated the approved budget was $4.6 million. Mayor Ives asked if Phase 2 had a breakdown of costs, and specifically how much would the veterinary service cost. Mr. Sharma indicated preliminary cost estimates are $7.8 million for the entire project. Chief Hampton stated it appeared that the veterinary area could be added in Phase 1 for approximately $400,000 - $600,000 in construction costs which does not cover equipment and operational costs.

Council Member Rickman asked staff if there was an area that could hold a larger animal. Mr. Miller outlined various options available until an appropriate rescue agency could respond.

Council Member Rickman offered a couple of suggestions such as naming rights for various areas in the facility and a web site to feature animals at the shelter.

Mayor Ives invited members of the public to address Council.

Arlene Robbins stated the City has needed a new animal shelter for years and hopes that the new site won't be too noisy. Ms. Robbins asked that Council approve the animal shelter plans.

Cathryn Rush stated she was glad the City will have a shelter to be proud of. Ms. Rush voiced concern that the veterinary services were part of Phase 2, indicating she knew many individuals who would be willing to donate or fundraise for that portion of the shelter.

Ben Peterson, Prologis, addressed Council in support of the project. Mr. Peterson apologized for not being a part of the process, asking that they be given an opportunity to discuss the site plan with staff especially regarding to access points and driveways. Mr. Peterson introduced Ryan George, the new manager who will be representing Prologis in the Tracy area.

Police Chief Hampton indicated the design presented to Council takes advantage of existing curb cuts and approaches present at the site. Police Chief Hampton stated a significant amount of community outreach has taken place and staff was challenged with strict timelines to meet expectations of the community. Police Chief Hampton indicated they were certainly willing to work with Prologis as a neighbor, but in order to meet deadlines approval at this meeting keeps the City on schedule.

Pam Summers, Animal Rescue of Tracy, addressed Council stating she was happy to see a new shelter coming to Tracy. Ms. Summers urged Council to push for the veterinary option in Phase 1.

Anne Marie Fuller addressed Council stating the new design is wise and addresses many safety issues encountered at the current shelter. Ms. Fuller urged Council to approve the design.

An animal lover and volunteer at the shelter addressed Council recommending that a plan be developed to have veterinary services included in Phase 1.

Mayor Ives asked for an estimated timetable. Mr. Sharma indicated design completion is scheduled for December 2013, bidding January 2014, award of contract in February 2014; construction completion by the end of October 2014; and ribbon cutting in November 2014.

Council Member Rickman stated it was a great design and thanked everyone who provided input on the project.

Mayor Ives stated he was glad the City has the money to build the facility and urged staff to find ways to build the shell for the veterinary services.

It was moved by Council Member Rickman and seconded by Council Member Manne to adopt Resolution 2013-094 approving the concept plans for the proposed Animal Shelter Facility – CIP 71064. Voice vote found all in favor; passed and so ordered.

5. ITEMS FROM THE AUDIENCE – Manuel Alvarez addressed Council concerning the lack of activities for youth. Mr. Alvarez suggested Council consider a youth center or a place for youth to show their art.

6. STAFF ITEMS

   A. Receive and Accept the City Manager Informational Update - Leon Churchill, Jr., City Manager, provided the staff report. Council accepted the report.

7. COUNCIL ITEMS – Council Member Rickman reminded everyone that the Parks summer guide was available and offers classes for all ages.

Mayor Pro Tem Maciel indicated he attended a Delta Coalition meeting on Monday, June 17, 2013, and provided Council with a packet that was presented to the legislators.

8. ADJOURNMENT - It was moved by Council Member Rickman and seconded by Council Member Manne to adjourn. Voice vote found all in favor; passed and so ordered. Time: 10:25 p.m.

The above agenda was posted at the Tracy City Hall on June 13, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

_____
Mayor

_____
City Clerk

TRACY CITY COUNCIL	SPECIAL MEETING MINUTES
June 18, 2013, 6:00 p.m.	
City Council Chambers, 333 Civic Center Plaza	*Web Site:* www.ci.tracy.ca.us

1. Mayor Ives called the meeting to order at 6:00 p.m.

2. Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

3. ITEMS FROM THE AUDIENCE – None.

4. COUNCIL WORKSHOP TO DISCUSS STRATEGIC PRIORITIES WHICH INCLUDE PUBLIC SAFETY, QUALITY OF LIFE, GOVERNANCE AND ECONOMIC DEVELOPMENT FOR FISCAL YEARS 2013/2014 AND 2014/2015 – Leon Churchill, Jr., City Manager, provided introductory remarks regarding the priorities and how they would be implemented across all departments within the City.

   Monica Gutierrez, Management Analyst, provided the Quality of Life Strategic Priority. The purpose of the Quality of Life Strategy is to provide an outstanding quality of life by enhancing the City's amenities and services and cultivating connections to promote positive change and progress in our community.

   Four goals identified in the Quality of Life Strategy include the following: (1) Improve current recreation and entertainment programming and services to reflect the community and match trending demands, (2) Address City amenities and facility usage with an emphasis on accessibility and streamlined services, (3) Cultivate community engagement through digital and traditional means, and (4) Coordinate community outreach with all strategic priority teams.

   For Goal 1, Improve current recreation and entertainment programming and services to reflect the community and match trending demands, three objectives have been identified. These include:

   Objective 1: Analyze current programming participation trends and submitted evaluations.
   Objective 2: Interpret city and school district demographic shifts and recommend service improvements accordingly.
   Objective 3: Align recreation and cultural arts services and programs to match demographics, evaluation feedback and trends.

   Five performance measures have been identified to ensure goals are being met. The performance measures are:

   - Review at least 80% of submitted evaluations annually.
   - Generate a quarterly report from class software to view participation trends.
   - Pilot at least three new recreation and cultural arts classes/programs annually.
   - Present at least six presentations to City departments, including Council on the demographic changes affecting programming and recreational services.
   - Increase resident enrollment by 10% in City classes.

For Goal 2, Address City amenities and facility usage with an emphasis on accessibility and streamlined services, three objectives have been identified:

Objective 1: Update facility use policies to protect and preserve our current inventory of amenities.
Objective 2: Explore public-private facility initiatives geared toward a multi-use facility.
Objective 3: Implement facility and class software improvement recommendations to sync, facility rentals, class enrollments and cultural art needs.

Five performance measures have been identified to ensure goals are being met. These measures are:

- Conduct at least three community conversations with facility users to discuss policy.
- Provide management with a semi-annual inventory of current partnerships.
- Launch new class software.
- Increase software registrants by at least 10%.
- Train at least ten staff members on the new class software.

For Goal 3, Cultivate Community Engagement through digital and traditional means, three objectives have been identified. These include:

Objective 1: Develop a value-based marketing and communications plan that bridges the gap between residents, businesses and the City.
Objective 2: Implement an on-line citizen engagement plug-in to the website that allows residents to share ideas, and digitally interact with Council.
Objective 3: Explore media partnerships with local news agencies to feature or provide column space for City news, editorials and information.

There are five performance measures associated with the Quality of Life Strategy Goal 3. These measures are:

- Circulate two marketing pieces in strategic locations throughout the City annually.
- Increase digital users of current City tools by 20%.
- Increase website “new” visitor hits by 15%.
- Produce at least three articles/information pieces for media publication annually.
- Host at least two media receptions at City Hall.

For Goal 4, Coordinate community outreach with all strategic priority teams, two objectives have been identified. These include:

Objective 1: Implementation of an electronic communication strategy to enhance communication, transparency and engagement.
Objective 2: Assist Public Safety Strategy team with Goal 1, Objective 2, and the Economic Development team with Goal 2, Objective 2.

There are four performance measures associated with the Quality of Life Strategy Goal 4. These measures are:

- Increase visibility and usage of email subscription service to internal and external customers by 20%.
- Collaborate with strategy teams on at least four public education and marketing events.
- Identify at least six community outreach opportunities.
- Create four email distribution templates for City departments.

Mayor Pro Tem Maciel asked what outreach methods would be employed. Ms. Gutierrez indicated it would depend on the targeted audience and the message to be delivered.

Council Member Rickman asked if a large portable message board has been considered for Eleventh Street and Lammers Road. Ms. Gutierrez indicated a digital board has not been considered due to possible traffic hazards from distracted drivers.

Lieutenant Mark Duxbury provided the Public Safety Strategic Priority. The purpose of the Public Safety Strategy is to enhance community safety by promoting a responsive public safety system that includes civic engagement and partnerships, community involvement, public education and offering prevention, intervention and suppression services that meet the needs of Tracy residents.

Four goals identified in the Public Safety Strategy include: (1) Partner with and engage residents to address public safety concerns, (2) Promote public health, safety, and community welfare by responding and addressing unsafe, unhealthy or blighted conditions in homes, neighborhoods and the entire community (3) Enhance citywide disaster preparedness, and (4) Reduce the number of major injury collisions.

For Goal 1, Partner with and engage residents to address public safety concerns, three objectives have been identified. These include:

Objective 1: Increase two-way communication regarding Part II crime information and prevention.
Objective 2: Increase visibility of public safety in the community.
Objective 3: Increase community volunteer opportunities to maximize engagement.

Five performance measures have been identified to ensure goals are being met. These include:

- Increase visibility and usage of GO Request smart phone application (Government Outreach) to internal and external customers by 20%.
- Re-establish an Adopt a Park program, with the adoption of four parks during years 2013/2014 and an additional four during year 2014/2015.
- Increase VIP participants by 10% annually.
- Increase Drown Without a Sound presentations by 10% annually.
- Increase Neighborhood Watch program by 5% annually.

For Goal 2, Promote public health, safety, and community welfare by responding and addressing unsafe, unhealthy or blighted conditions in homes, neighborhoods and the entire community, two objectives have been identified. These include:

Objective 1: Reduce the number of blighted property conditions.
Objective 2: Streamline enforcement processes regarding citywide violations that cross departments.

There are five performance measures associated with the Public Safety Strategy Goal 2:

- Increase field inspections annually by 10%.
- Resolve 98% of all violations annually without court action.
- Complete initial inspection within 72 hours of report of violation.
- Broaden education platform to include outreach to K-8 school grades.
- Implement an internal training program to address the abatement process of inoperable vehicles and overgrown weeds and rubbish by other departments.

For Goal 3, Enhance citywide disaster preparedness, two objectives have been identified. These include:

Objective 1: Develop and implement a community education program for internal and external customers to better prepare and respond to man-made and natural disasters.
Objective 2: Develop a citywide emergency safety and evacuation plan in the event of power outage, technological failure or natural or man-made disasters as to not impact public safety.

Three performance measures for Public Safety Strategy Goal 3 are:

- Increase CERT graduates by 10% annually.
- Participate in the annual Statewide “Great Shake Out” Earth Quake Preparedness Drill.
- Implement a City Hall Emergency Evacuation and Safety Plan for City Hall employees.

For Goal 4, Reduce the number of major injury collisions, two objectives have been identified. These include:

Objective 1: Increase public awareness of traffic safety issues specific to Tracy.
Objective 2: Increase traffic related enforcement by 5%.

The three performance measures for Goal 4 are:

- Conduct presentations to all local high schools regarding distracted driving and texting while driving statistics.
- Develop and distribute literature at a citywide level on current trends relating to distracted driving and don’t text while driving initiatives.
- Participate in three community safety events.

Council Member Rickman commended staff stating the Tracy Press has shown that the Police Department has been very proactive on shutting down marijuana grow houses in town.

Mayor Pro Tem Maciel asked if statistics were available that show high school aged drivers contribute to a disproportionate share of collisions. Lieutenant Duxbury stated reports show that speed is the most common cause of collisions and also the most common violation of high school aged drivers.

Council Member Manne asked if there was a specific number or goal to meet regarding reducing collisions. Lieutenant Duxbury indicated no percentage was identified, but the overall goal was to reduce the number of collisions and raise awareness of the causes of collisions.

Council Member Young, referred to Public Safety Goal 2.a.3, and asked what kind of common violations occur and why was staff only focused on delivering general code enforcement presentations to K-8 students. Lieutenant Duxbury stated the goal was to educate younger kids who have a direct influence on their parents. Council Member Young suggested extending presentations at the high school level.

Council Member Manne stated the "Every 15 Minute" program provided at the high school level was an excellent program.

Mayor Pro Tem Maciel asked if reinstituting the reserve officer program had been considered. Lieutenant Duxbury stated the reserve officer program has not been considered; that the focus has been on the Volunteers In Police Service (VIPS) program, the Community Emergency Resource Team (CERT) program and the Neighborhood Watch program.

Mayor Ives asked if this was a joint effort between the Police and Fire Departments. Lieutenant Duxbury stated yes.

Ed Lovell, Management Analyst, provided the Governance Strategic Priority. The purpose of the Governance Strategy is to retain and attract new talent, enhance fiscal stability, improve the use of technology, and enhance transparency for the betterment of the community of Tracy.

The three goals identified in the Governance Strategy include: (1) Further develop an organization that attracts, motivates, develops and retains a high quality, engaged, informed and high performing workforce, (2) Ensure continued fiscal sustainability through financial and budgetary stewardship, (3) Identify technological resources to promote communication and civic engagement, enhance City services, and promote organizational productivity.

For Goal 1, Further develop an organization that attracts, motivates, develops and retains a high quality, engaged, informed and high performing workforce, three objectives have been identified. These include:

Objective 1: Identify outreach opportunities to promote Tracy as a desirable place to work.
Objective 2: Affirm organizational values.
Objective 3: Evaluate and promote Tracy W.I.N.S. (When Initiative Nurtures Success)

Five performance measures have been identified to ensure goals are being met. These include:

- List of methods for outreach and promotion of Tracy is created
- Analysis of interdepartmental sampling of organizational values, and revise if necessary
- Maintain 95% enrollment capacity in each Tracy Performance Institute (TPI) class.
- 80% of all TPI course evaluations rates 4 or above (with 5 being the highest rating).
- Analysis of curriculum.

For Goal 2, Ensure continued fiscal sustainability through financial and budgetary stewardship; three objectives have been identified. These include:

Objective 1: Update General Fund reserve policy.
Objective 2: Development of revenue growth and expenditure reduction strategies.
Objective 3: Enhance fiscal transparency.

There are four performance measures associated with the Governance Strategy Goal 2. They are:

• Availability of user friendly budget documents on the city website.
• Comprehensive fee study of development fees with proposed fees and rates.
• Council approved one-time revenue policy.
• Council approved long-term liability strategy.

For Goal 3, Identify technological resources to promote communication and civic engagement, enhance City services, and promote organizational productivity; three objectives have been identified. These include:

Objective 1: Develop Information Technology (IT) policy guidelines to coordinate and streamline implementation of new software/hardware.
Objective 2: Implement productivity initiatives to improve organizational effectiveness.
Objective 3: Begin implementation of Enterprise Resource Planning software.

The four performance measures for Governance Strategy Goal 3 are:

• Policy for software/hardware standardization throughout the City developed.
• Areas identified where technology can be used to make improvements along with associated costs.
• Prioritized technology resource list along with associated costs.
• Enterprise Resource Planning software purchased and implementation

Mayor Ives indicated the strategy was more an administrative strategy than a governance strategy and its focus was administering the organization and its operations. Mayor Ives added while it is the City's purpose to enhance transparency, there were no goals outlined.

Leon Churchill, Jr., City Manager, indicated transparency was in the main stream of terminology. Mr. Churchill stated transparency is something we all strive for and is important to convey that the City is open and will make all information available.

Mayor Ives stated transparency was an on-going philosophical goal of our City and important to share with the community.

Mayor Pro Tem Maciel suggested using the terms "maintaining" versus "enhance".

Council Member Young added that the term governance communicates how the City conducts business as attracting, retaining and developing.

Mayor Ives indicated the term "assure" transparency might better reflect the intent. Mr. Lovell outlined the budget process and how staff attempts to make the budget more user friendly on the internet.

Amie Mendes, Economic Development Analyst, provided the Economic Development Strategic Priority. The purpose of the Economic Development Strategy is to enhance the competitiveness of the City while further developing a strong and diverse economic base.

Four goals identified in the Economic Development Strategy include: 1) Create head-of-household jobs reflective of the City's target industries and those that best match the skill sets of the local labor force, (2) Attract retail and entertainment uses that offer residents quality dining, shopping and entertainment experiences, (3) Support a higher education presence in Tracy, and (4) Position Tracy as the preferred location for start-up companies and entrepreneurial investment.

For Goal 1, Create head-of-household jobs reflective of the City's target industries and those that best match the skill sets of the local labor force, three objectives have been identified. These include:

Objective 1: Focus business recruitment efforts on identified target industries including: Medical Equipment and Supplies, Food Processing, Renewable Resources and Technology, Manufacturing, Backroom Office and Information Technology.
Objective 2: Foster relationships with the existing business community to support the overall upgrade and expansion of employment opportunities.
Objective 3: Continuously review and improve the streamline permit process and ensure quality infrastructure to meet future development needs.

Three performance measures have been identified to ensure goals are being met. These include:

• Increase overall job growth by 5% citywide annually.
• Target 30% of new jobs annually to be head-of-household positions.
• Approve two Grow Tracy Fund Loans annually to new/existing businesses.

For Goal 2, Attract retail and entertainment uses that offer resident's quality dining, shopping and entertainment experiences, three objectives have been identified. These include:

Objective 1: Focus retail recruitment efforts on quality retailers and restaurants that meet the desires of the community.
Objective 2: Increase the entertainment and recreational opportunities and events that draw people into Tracy.
Objective 3: Collaborate with and support the Tracy City Center Association (TCCA) in an effort to increase the drawing power of the downtown.

There are four performance measures associated with the Economic Development Strategy Goal 2 as follows:

• Attract two 'unique' retailers that are not currently in the trade area.
• Increase sales tax revenue by 5% annually.
• Increase Transient Occupancy Tax (TOT) revenue by 5% annually.
• Decrease downtown vacancy rate by 5% annually.

For Goal 3, Support a higher education presence in Tracy, three objectives have been identified. These include:

Objective 1: Research and collect supportive data to demonstrate the regional demand for higher education.
Objective 2: Identify potential higher education partners and begin marketing and outreach efforts to encourage the development of programing in Tracy.
Objective 3: Partner with the current university recruitment group in educating the Tracy community on the assessment and possible benefits of higher education in Tracy.

The two performance measures for Economic Development Strategy Goal 3 are:

• Distribute marketing and outreach materials to a dozen higher education institutions.
• Meet with and tour four higher education institutions in Tracy.

For Goal 4, Position Tracy as the preferred location for start-up companies and entrepreneurial investment, two objectives have been identified. These include:

Objective 1: Explore opportunities for the development of existing incubator and entrepreneur programs in the region, including: San Joaquin Angel Network, Altamont Co-work, Tracy Chamber Entrepreneurs Group, etc.
Objective 2: Attract start-up companies and entrepreneurs from the Silicon Valley and Bay Area region.

There are two performance measures associated with the Economic Development Strategy Goal 4 as follows:

• Identify two office locations and associated funding to aid in the attraction of start-ups and entrepreneurs.
• Foster relationships with five start-up companies and/or entrepreneurs.

Mayor Pro Tem Maciel stated the City receives requests from the business community to modify standards, specifically regarding sign restrictions. Mayor Pro Tem Maciel indicated it might be worthwhile for Council to re-visit current standards to see if they need updated based on current trends.

Council Member Rickman asked how long it would be until the City knows the outcome of consultant efforts. Ms. Mendes indicated staff was currently working with a consultant on identifying available sites and matching those sites with retailers and restaurants. Ms. Mendes stated the current contract runs through the end of the fiscal year.

Council Member Rickman indicated Council has identified that more family oriented activities were needed and asked if there was a plan to address this need. Ms. Mendes stated staff will be re-evaluating the City's incentive program as well as conducting direct outreach. Ms. Mendes further stated staff was developing a list of entertainment uses the community is seeking.

Council Member Rickman asked if staff was assisting businesses to locate to their preferred location versus telling them where to locate. Ms. Mendes indicated businesses normally tell staff where they want to locate, which is usually around retail uses. Ms. Mendes added staff typically takes business prospects on a tour of available sites.

Council Member Rickman encouraged staff to make Council aware of any needs they have regarding economic development.

Andrew Malik, Development Services Director, provided an update on potential locations and staff's efforts regarding incubator projects.

Council Member Young asked if staff's focus for entertainment uses was only in two areas. Ms. Mendes stated two specific properties were being looked at because of the large amount of land. Ms. Mendes added that entertainment was included in the economic recruitment focus.

Council Member Manne stated that the Economic Strategy provides the strategy for the goals Council outlined at their retreat.

Council Member Manne asked how often Council would receive updates on the strategies. Mr. Churchill stated each strategy team attends regular and quarterly meetings where efforts are recalibrated. Mr. Churchill stated staff can provide updates as frequently as Council chooses.

Council Member Manne indicated he would appreciate updates as various goals are achieved. Mr. Churchill suggested a semi-annual update to Council. Mayor Ives indicated a semi-annual update regarding the 15 goals would be appropriate. It was Council consensus to have an update every six months.

Council Member Rickman stated Ana Contreras and Jim Decker of the Code Enforcement Division were doing a great job with limited resources. Council Member Rickman praised Fire Chief Nero for his work on disaster preparedness and hazmat expansion.

Mayor Ives asked if everything proposed in the Strategic Priorities was within budget. Mr. Churchill stated yes.

Mayor Ives invited members of the public to address Council. There was no one wishing to address Council on the item.

Council accepted the Strategic Priorities Report.

Council Member Young indicated she would like to see recreation under Goal 1. Mr. Churchill stated there is cross over between quality of life and economic development, but no specific mention of recreation was provided because staff was not proposing a major re-structure of recreation.

Council Member Young stated it was not clear how outreach was being done. Ms. Mendes indicated part of the on-line survey to be conducted will address where residents are going for their entertainment needs.

Council Member Rickman added that entertainment was a huge quality of life issue and not just a class in the recreation guide. Mr. Churchill indicated it would be footnoted in future reports.

5. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adjourn. Voice vote found all in favor; passed and so ordered. Time: 6:53 p.m.

The above agenda was posted at the Tracy City Hall on June 13, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

_____
Mayor

_____
City Clerk

TRACY CITY COUNCIL	SPECIAL MEETING MINUTES
June 18, 2013, 5:30 p.m.	
City Council Chamber, 333 Civic Center Plaza	*Web Site:* www.ci.tracy.ca.us

1. CALL TO ORDER - Mayor Ives called the meeting to order at 5:30 p.m. for the purpose of a closed session to discuss the items outlined below.

2. ROLL CALL - Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

3. ITEMS FROM THE AUDIENCE – None.

4. REQUEST TO CONDUCT CLOSED SESSION -

   I. Real Property Negotiations (Gov. Code, § 54956.8)

   - Property Location: City-owned Schulte Road Property (Two adjoining parcels located on the south side of West Schulte Road, approximately 1 mile west of Lammers Road; comprised of: APN #209-230-03; and APN #209-230-29)

   Negotiator(s) for City: Maria Hurtado, Assistant City Manager; Rod Buchanan, Interim Director Public Works; and Andrew Malik, Development Services Director

   Negotiating Parties: Representatives of Surland Communities, LLC

   Under negotiation: Price and terms of payment for sale or lease.

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Maciel motioned to recess the meeting to closed session at 5:31 p.m. It was seconded by Council Member Manne. Voice vote found all in favor; passed and so ordered.

6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 5:59 p.m.

7. REPORT OF FINAL ACTION – None.

8. ADJOURNMENT – It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adjourn the meeting. Voice vote found all in favor; passed and so ordered. Time: 6:00 p.m.

The above agenda was posted at City Hall on June 13, 2013. The above are action minutes.

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.B

REQUEST

APPROVAL OF AN AGREEMENT WITH THE TRACY UNIFIED SCHOOL DISTRICT (TUSD) AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT; ACCEPT FUNDING FOR DRUG ABUSE AND RESISTANCE PROGRAM (DARE) TO BE USED FOR SUPPLIES, T-SHIRTS, AND GRADUATION EXPENSES FOR FISCAL YEAR 2013-14, IN THE AMOUNT OF $10,000

EXECUTIVE SUMMARY

The City of Tracy and TUSD now wish to enter into an agreement setting forth the terms whereby the TUSD can provide financial assistance for DARE and the City can provide such education for fiscal year 2013-2014.

This Agreement is in the form of a Memorandum of Understanding (MOU) whereby TUSD will provide funding to the City of Tracy, in the amount of $10,000, each school year to be used for supplies, t-shirts, and graduation expenses. The City of Tracy will provide DARE to students within the Tracy City limits.

DISCUSSION

For fiscal year 2013-2014 the City of Tracy took over the responsibility of providing the students of TUSD with the DARE program. The City of Tracy hired a part-time DARE instructor and are on schedule to provide the DARE program in the Fall 2013. This program will be provided for students within the Tracy City limits. For the fiscal year 2013-2014 the City of Tracy funded this program with $45,000 to be used for instruction and $15,000 to be used for supplies. Any additional expenses were to be covered by the DARE board.

TUSD, recognizing the importance of DARE program, has agreed to provide the City of Tracy $10,000 each school year for supplies, T-Shirts, and Graduation Expenses. This money will not be used for the DARE officer's salary and benefits.

FISCAL IMPACT

This action will result in the appropriation and expenditure of $10,000. The funds would be added to the Police Department's Operating Budget for the DARE Program, Fund 101-51270 for fiscal year 2013-2014.

RECOMMENDATION

That City Council approve the Agreement with Tracy Unified School District (TUSD) and authorize the Mayor to execute the agreement and accept funding for Drug Abuse and Resistance (DARE) Program to be used for supplies, t-shirts, and graduation expenses for Fiscal Year 2013-14, in the amount of $10,000.

Prepared by: Jeremy Watney, Field Operations Captain
Reviewed by: Gary Hampton, Chief of Police
Reviewed by: Jenny Haruyama, Administrative Services Manager
Approved by: R. Leon Churchill, Jr., City Manager

Attachment 1- Memorandum of Understanding between the City of Tracy and the Tracy Unified School District

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE TRACY UNIFIED SCHOOL DISTRICT

I. **PARTIES:** This Memorandum of Understanding (hereinafter "MOU") is made by and between the City of Tracy (hereinafter "City"), a municipal corporation, and the Tracy Unified School District (hereinafter "District"), a California Unified School District.

II. **RECITALS:**

A. The City recognizes the benefit that providing education to youth on the perils of drug and alcohol abuse provides to the residents of the City of Tracy.

B. The City and the District each recognize that the City is in a much better position to provide such education to youth attending classes within the City of Tracy.

C. In the past, the City has provided financial assistance to the District to provide funding to teach the Drug Abuse Resistance Education program to various students in the District and within the City limits.

D. The City now will be responsible for the Drug Abuse Resistance Education program with the District providing financial assistance each school year to pay for supplies.

E. The City and the District now wish to enter into an agreement setting forth the terms whereby the District can provide financial assistance for such education and the City can provide such education for fiscal year 2013-2014.

III. **RESPONSIBILITIES:** It is agreed by and between the parties hereto that each party have the following responsibilities, unless otherwise noted:

A. The City shall: at the completion of each completed session of DARE services, submit invoices to the District describing the supplies purchased.

B. TUSD Shall: (1) allow City Police Department personnel access to fifth grade classrooms at schools located within the City of Tracy city limits for the purposes of providing DARE services; and (2) at the beginning of each school year, pay the City $10,000 to be used for DARE supplies, T-Shirts, and Graduation Expenses. Within thirty days after the District's receipt of invoice, District shall make payment to the City based upon the services described on the invoice and approved by the District.

IV. **TERM:** This MOU shall take effect on September 1, 2013, for a term of one year and will then renew automatically on an annual basis (for one year terms) unless one or both parties request non-renewal not less than ninety days prior to the end of the term or, if renewed, the renewed term.

V. **DESIGNATED REPRESENTATIVES**: For the purposes of administering the Agreement, the Superintendent of the District, or designee, and the City Manager of the City, or designee, shall act as representatives for their respective parties, and authority for signature shall be provided by vote of the Board of Trustees of the District and the City's City Council respectively.

VI. **NOTICES:**

City of Tracy
Police Chief
1000 Civic Center Drive
Tracy, CA 95376

Tracy Unified School District
Dr. James Franco
1875 W. Lowell Ave.
Tracy, CA 95376

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

VII. **ENTIRE AGREEMENT**: This MOU constitutes the entire agreement between the City and the District with respect to DARE services. Any amendment to this MOU, including oral modification, must be reduced to a writing and signed by both the City and the District before it shall be deemed effective.

VIII. **SIGNATURES**: The individuals executing this MOU represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this MOU on behalf of the respective legal entities of the District and the City. This MOU shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

City of Tracy

_____
Brent H. Ives, Mayor

Date:_____

ATTEST:

_____
City Clerk

Date:_____

Approved as to form:

_____
Bill Sartor
Assistant City Attorney

Tracy Unified School District

_____
Dr. James Franco, Superintendent

Date:_____

RESOLUTION _____

AUTHORIZING THE APPROVAL OF AN AGREEMENT WITH THE
TRACY UNIFIED SCHOOL DISTRICT (TUSD) AND AUTHORIZING
THE MAYOR TO EXECUTE THE AGREEMENT TO ACCEPT FUNDING
FOR THE DRUG ABUSE AND RESISTANCE (DARE) PROGRAM
TO BE USED FOR SUPPLIES, T-SHIRTS, AND GRADUATION EXPENSES
FOR FISCAL YEAR 2013-14, IN THE AMOUNT OF $10,000

WHEREAS, The City of Tracy and Tracy Unified School District recognize the benefit that providing education to youth on the perils of drug and alcohol abuse provides to the residents of the City of Tracy, and

WHEREAS, The Tracy Unified School District will provide $10,000 for fiscal year 2013-2014, and

WHEREAS, The Tracy Police Department intends to use the appropriation of $10,000 to purchase DARE supplies, t-shirts and graduation expenses;

NOW THEREFORE BE IT RESOLVED, That City Council hereby authorize the approval of an Agreement with the Tracy Unified School District (TUSD) and authorize the Mayor to execute the Agreement to accept funding for the Drug Abuse and Resistance (DARE) Program to be used for supplies, t-shirts, and graduation expenses for Fiscal Year 2013-14, in the amount of $10,000.

* * * * * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the _____day of _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.C

REQUEST

AUTHORIZE THE APPOINTMENT OF SIX YOUTH COMMISSIONERS TO THE YOUTH ADVISORY COMMISSION

EXECUTIVE SUMMARY

The bylaws of the Youth Advisory Commission set the minimum number of youth appointed Commissioners at eight, with a maximum limit at fourteen and a maximum of three adult Commissioners. A selection panel was established and they have made recommendations for six youth to be appointed for a two year term to fill the existing youth vacancies on the Youth Advisory Commission.

DISCUSSION

The bylaws of the Youth Advisory Commission call for a minimum of eight youth and a maximum of fourteen youth Commissioners and a maximum of three adult Commissioners that may sit on the Commission. The bylaws are crafted to include two youth representatives from each of the four comprehensive high schools in the area (Kimball, Millennium, Tracy and West) and the four alternative education high schools (Delta Charter, Duncan-Russell Continuation, Excel High and Stein Continuation.) The selection process for the Youth Advisory Commission is to have a diverse group of teens that reflect each of the Tracy area high schools who wish to have a voice in their community and be involved in the Commission. Adult Commissioners shall reside within the jurisdiction of any Tracy school district to include one member of the School District and two members of the community who desire to work with youth. Currently the Commission has four youth and two adult vacancies.

The City recruits new Commissioners on an ongoing basis to fill any vacancies created by outgoing Commissioners. The bylaws of the Youth Advisory Commission call for a selection panel to review new applications and make recommendations for appointment to the City Council. This year's panel consisted of Recreation Coordinator Jolene Jauregui, Recreation Leaders III Justin Geibig and Beatrice Amezquita, and Parks Commissioner Alex Holguin.

The interview panel conducted interviews on May 20, 2013. The following six youth: Serena Cho, Cristian Gonzaleaz, Kyle Hall and Gianna Oliveri from Millennium High School, Althea Elmore from Kimball High School and Bill Yang from West High School, are being recommended to serve two year terms, from August 1, 2013 to July 31, 2015.

FISCAL IMPACT

There is no impact on the General Fund.

RECOMMENDATION

Staff recommends that the City Council approve, by resolution, the appointment of six youth Commissioners to the Youth Advisory Commission based upon the interview and selection panel recommendations.

Prepared by: Laura Johnston, Recreation Coordinator

Reviewed by: Kim Scarlata, Recreation Manager

Approved by: R. Leon Churchill, Jr., City Manager

RESOLUTION _____

AUTHORIZING THE APPOINTMENT OF SIX YOUTH COMMISSIONERS TO THE YOUTH ADVISORY COMMISSION

WHEREAS, The bylaws of the Youth Advisory Commission call for a minimum of eight Commissioners, and a maximum of fourteen youth Commissioners and a maximum of three adult Commissioners that may sit on the Commission; and

WHEREAS, The eligibility criteria and selection process of YAC Commissioners are established; and

WHEREAS, The City recruits new Commissioners on an ongoing basis to replace the outgoing Commissioners and existing vacancies, and has established a recommendation selection panel to recommend appointees to City Council; and

WHEREAS, The recommendation selection panel recommended the following six youth; Serena Cho, Cristian Gonzaleaz, Kyle Hall, Gianna Oliveri, Althea Elmore and Bill Yang for two year terms, from August 1, 2013 to July 31, 2015;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves the appointment of the six new Youth Commissioners recommended by the selection panel as identified above, and for the recommended terms, to the Youth Advisory Commission.

* * * * * * * * * * * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the _____ day of _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.D

REQUEST

APPROVAL OF WHOLESALE WATER AGREEMENT BETWEEN BYRON BETHANY IRRIGATION DISTRICT AND THE CITY OF TRACY FOR WATER SUPPLY FOR TRACY HILLS, FIND THE CEQA NEGATIVE DECLARATION ADEQUATE FOR THE CITY'S USE, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

The subject agreement provides water supply for a portion of the Tracy Hills project.

DISCUSSION

The subject agreement provides water supply for the portion of the Tracy Hills Specific Plan area, as shown on the attached location map. This land was annexed into the City in 1998 and was annexed into the Byron Bethany Irrigation District (BBID) in 1999. The subject agreement, in conjunction with a water exchange agreement between BBID and the US Bureau of Reclamation (USBR), will provide for BBID's water to be pumped into the Delta-Mendota Canal (DMC) and delivered to the City's John Jones Water Treatment Plant.

BBID will construct the necessary pump station and pipeline between their facilities and the DMC. Water will then be pumped into the DMC, conveyed to Tracy and after treatment, potable water will be pumped to serve the Tracy Hills development.

The agreement provides for delivery of up to 4,500 acre-feet per year. Delivery of the water is to be scheduled through the USBR and is subject to conveyance capacity being available in the DMC. The agreement has a term of approximately 40 years, through February 28, 2053.

BBID is the lead agency for CEQA and has prepared and adopted a Negative Declaration.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's four strategic plans.

FISCAL IMPACT

There is no fiscal impact to the General Fund. The City, through water rates, will fund maintenance of the BBID pump station and will pay for the delivered water.

RECOMMENDATION

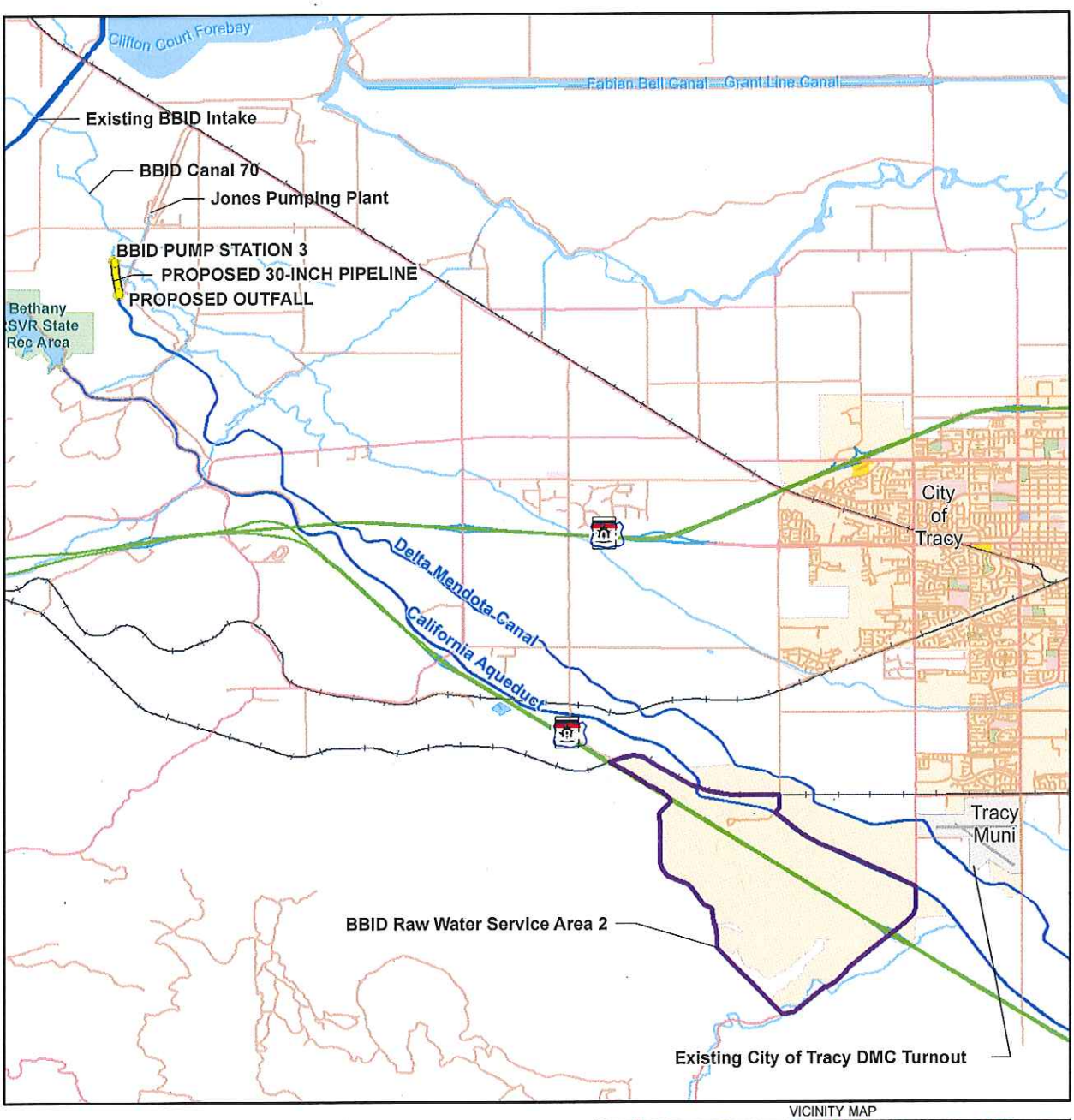
That the City Council, by resolution, approve the Wholesale Water Agreement between Byron Bethany Irrigation District and the City of Tracy, find the CEQA negative declaration adequate for the City's use, and authorize the Mayor to execute the agreement.

Prepared by: Steve Bayley, Public Works Project Specialist

Reviewed by: Rod Buchanan, Interim Public Works Director

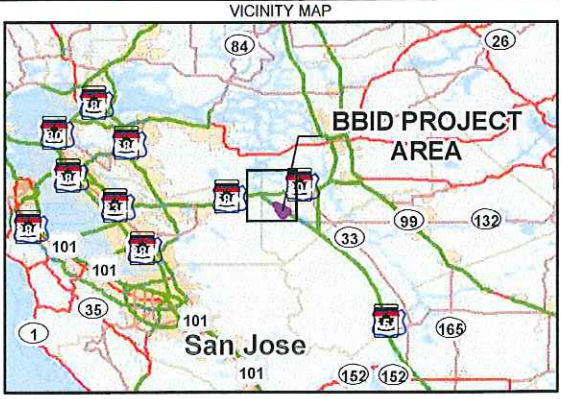
Approved by: R. Leon Churchill, Jr., City Manager

Attachment A: Location Map
Attachment B: Wholesale Water Agreement between Byron Bethany Irrigation District and the City of Tracy
Attachment C: BBID Notice of Preparation of Negative Declaration



LEGEND
- INTERSTATE
- PRIMARY US & STATE HIGHWAY
- SECONDARY US & STATE HIGHWAY
- ROAD
- RAILROAD
- BBID RAW WATER SERVICE AREA 2
- CITY AREA

VICINITY MAP



N

0 5,000 10,000
Feet

FIGURE 1
PROJECT AREA
BBID TRACY HILLS WATER SUPPLY PROJECT
TRACY, CALIFORNIA

CH2MHILL

\\THOR\CART1\PROJECTS\BBID_154679\MAPFILES\FIG1_BBID_LOCATION.MXD ECLARK1 12/18/2009 13:35:49

WHOLESALE WATER AGREEMENT BETWEEN BYRON BETHANY IRRIGATION DISTRICT AND THE CITY OF TRACY

This Agreement is entered into on _____, 2013, by and between BYRON BETHANY IRRIGATION DISTRICT ("BBID"), a political subdivision of the State of California, and the CITY OF TRACY ("CITY"), a municipal corporation, collectively referred to as the "Parties" and each singularly as a "Party."

RECITALS

A. BBID is an irrigation district organized and operating under and by virtue of Division 11 of the California Water Code. BBID was formed in 1919 for the purpose of providing irrigation water service to lands within the district. It currently provides irrigation water service to approximately 20,000 acres of land within its district boundaries;

B. BBID has the authority to deliver water for domestic, municipal, and industrial purposes pursuant to Water Code sections 22075 and 22076;

C. The primary source of water supply for BBID's Byron Service Area is from a pre-1914 water right originating in Italian Slough as set forth in a Notice of Appropriation of Water dated May 18, 1914.

D. The 6,000-acre Tracy Hills Property was annexed by the CITY in 1998. The Tracy Hills Property is located within the southwestern portion of the CITY. Approximately 2,006 acres of the Tracy Hills Property, hereinafter referred to as the Raw Water Service Area 2 ("RWSA2"), was annexed into the Byron Service Area of BBID on December 10, 1999. A map of the Tracy Hills Property, specifically depicting RWSA2, is attached hereto as Exhibit A and incorporated herein.

E. The United States Bureau of Reclamation ("Reclamation") and BBID have negotiated a Long-Term Contract Providing for Exchange of Water Between the United States and Byron Bethany Irrigation District – Delta Division and San Luis Unit, Contract No. 11-WC-20-0149 ("Exchange Contract"), which is attached hereto as Exhibit B and incorporated herein. BBID's Board of Directors has authorized the execution of the Exchange Contract, which will be undertaken following the execution of this Agreement.

F. BBID and CITY desire to enter into this Agreement for the purpose of specifying the terms and conditions under which BBID will provide a wholesale water supply to CITY for municipal and industrial use within RWSA2.

NOW THEREFORE, the Parties understand and agree as follows:

AGREEMENT

1. RECITALS. The recitals contained herein are an integral part of this Agreement and are true and correct.

2. TERM.

2.1 Initial Term. This Agreement shall be effective upon execution and shall remain in effect through February 28, 2053.

2.2 Agreement to Extend. The term of this Agreement shall be extended at the request of the CITY and subject to terms mutually agreeable to the Parties. A request for an extension of this Agreement shall be made in writing to BBID no later than January 1, 2051.

2.3 To the extent BBID has a statutory obligation to provide water service under provisions of law governing Irrigation Districts to lands within its boundaries, termination of this Agreement shall not be interpreted as affecting any such obligation of BBID to provide water to RWSA2.

3. CONDITION PRECEDENT. It is the intent of the Parties that the obligations of CITY under this Agreement shall not become binding and enforceable against CITY unless and until (i) a development plan for the Tracy Hills Property has been finally approved by CITY, (ii) construction of the Tracy Hills development project has commenced, and (iii) Reclamation executes the Exchange Contract, which events shall constitute conditions precedent to the obligations of CITY to perform under this Agreement.

4. WATER SUPPLY.

4.1 BBID shall deliver to CITY, on a wholesale basis, untreated Non-Central Valley Project Water (hereinafter "Exchange Water") in the amount of up to 4,500 acre-feet per Year. For purposes of this Agreement "Year," "Annual" or "Annually" shall mean the period from and including March 1 of each calendar year through the last day of February of the following calendar year. The Parties acknowledge and agree that the Exchange Water will be provided pursuant to, and subject to the terms and conditions of, the Exchange Contract.

4.2 BBID shall also be responsible for providing no more than 225 acre-feet of Exchange Water annually for conveyance losses in the Delta Mendota Canal. CITY will bear a 5 percent conveyance loss for all deliveries under this Agreement.

4.3 Exchange Water will be delivered to the CITY by Reclamation at the turnout on the Delta Mendota Canal for the John Jones Water Treatment Plant at MP 15.88L. The CITY shall be responsible for treatment and for the control, carriage, handling, distribution and disposal of the Exchange Water beyond the point of delivery specified herein.

5. PLACE OF USE. Exchange Water delivered to the CITY pursuant to this Agreement shall be used only within RWSA2.

6. SCHEDULE OF DELIVERY OF EXCHANGE WATER.

6.1 The amount, timing, and rate of delivery of Exchange Water by BBID to the CITY during any Year shall be governed by this Section 6.

6.2 On or before December 1 of each Calendar Year, the CITY shall submit in writing to BBID a preliminary Delivery Schedule, indicating the monthly amount, timing and rate of delivery of Exchange Water during the following Year.

6.3 Upon receipt of the preliminary Delivery Schedule described in Section 4.2, BBID shall review the preliminary Delivery Schedule and seek approval from Reclamation pursuant to the Exchange Contract. BBID will consult with the CITY regarding any revisions to the preliminary Delivery Schedule that may be required by Reclamation. BBID and the CITY will meet in good faith to develop a mutually acceptable final Delivery Schedule that reasonably satisfies the CITY's water supply requirements within the limits of BBID's delivery capacity. A final Delivery schedule will be in place no later than March 1 of any Calendar Year.

6.4 Any revisions to the final Delivery Schedule by the CITY shall be submitted to BBID and approved by Reclamation in accordance with the Exchange Contract.

7. PAYMENT FOR EXCHANGE WATER.

7.1 CITY shall pay BBID for Exchange Water requested by and delivered to CITY in accordance with this Section 7.

7.2 On January 1st of each Calendar Year, BBID will provide to the CITY the estimated cost ("Exchange Water Charge") for the supply and delivery of Exchange Water to the CITY. The Exchange Water Charge will be based upon a rate study conducted by BBID or upon the previous Year's cost and the CITY's projected Annual water deliveries. The Exchange Water Charge will include, but is not limited to, management services, pumping costs (electric, labor, minor maintenance), conveyance, conveyance losses and storage costs. The management services cost portion of the Exchange Water Charge will be equal to the total BBID Administrative Budget divided by the quantity of water (i) delivered by BBID to all customers during the previous Year, and (ii) transferred by BBID to third parties during the previous Year. For purposes of this Agreement, "BBID Administrative Budget" means that portion of the BBID annual budget attributable to general administrative costs such as, but not limited to, salaries, wages, benefits, legal and accounting services and office expenses, but shall not include any operation or maintenance expenses.

7.3 On February 1st of each Calendar Year, the CITY will submit the Exchange Water Charge to BBID. BBID will establish a separate account ("Exchange Water Charge Account") from which BBID will deduct the actual costs for providing the Exchange Water to the CITY's turnout on the DMC at MP 15.88L. BBID will provide the CITY a monthly statement of actual costs and the remaining balance in the Exchange Water Charge Account. If actual costs exceed the estimated Exchange Water Charge, the CITY will make an additional payment to cover the estimated Exchange Water Charge for the remainder of the Year. If actual costs are less than the estimated Exchange Water Charge, the remaining balance in the Exchange Water Charge Account will be carried over into the following Year and credited to CITY.

8. PAYMENT OF MAJOR MAINTENANCE AND REPLACEMENT COSTS.

8.1 BBID will establish a separate interest-bearing Major Maintenance and Replacement Account, and all interest paid thereon will inure to the benefit of CITY. Funds in this account will be used to replace equipment such as pumps, SCADA and electrical controls as well as other major maintenance and replacement that may be required. BBID will provide the CITY with an annual statement of the Major Maintenance and Replacement Account.

8.2 BBID will determine an annual Major Maintenance and Replacement Charge based upon a rate study to be undertaken by BBID in accordance with generally accepted principles and procedures for similar rate studies. The rate study will take into account the projected major maintenance and replacement costs over the projected useful life of the equipment and facilities to be utilized by BBID to provide water to CITY under this Agreement. In December of each Calendar Year, BBID will meet and confer with CITY regarding (i) major maintenance and replacement activities which BBID anticipates will be performed in future years; and (ii) BBID's estimate of the projected cost of such major maintenance and replacement activities to be performed in future years. On February 1st of each Calendar Year, the CITY shall submit an annual payment for deposit by BBID into the Major Maintenance and Replacement Account. BBID will deduct actual costs for major repairs and equipment from the Major Maintenance and Replacement Account when such costs are incurred.

8.3 BBID will have no authority whatsoever to impose standby charges or other similar charges, fees or assessments on CITY or residential, commercial or industrial property owners within CITY, except as provided in the Second Amendment to the Petition and Agreement for Annexation of Territory to the Byron Bethany Irrigation District and Expansion of the District's Sphere of Influence, and as that agreement may be subsequently amended.

9. CHARGES TO REFLECT ACTUAL COST. It is the intent of the Parties that the Exchange Water Charge and the Major Maintenance and Replacement Charge will each reflect the actual cost to BBID of providing wholesale water service to CITY pursuant to this Agreement.

10. SHORTAGES.

10.1 CITY understands that BBID's ability to provide water may be diminished, should BBID become subject to: (1) administrative or regulatory orders from the State Water Resources Control Board or other state or federal regulatory agencies; (2) other adverse conditions beyond BBID's control including but not limited to drought; (3) judicial orders or decrees; or (4) state or federal legislation affecting the availability of water to BBID. BBID will use its best efforts to prevent any reduction or interruption of water service to CITY. Any shortage of water will be ratably apportioned among landowners within BBID, including RWSA2 in accordance with applicable law.

10.2 Pursuant to the Exchange Contract, BBID may only introduce Non-Project Water when there is excess capacity available in the Central Valley Project. BBID and the CITY agree to cooperate in revising the Delivery Schedule to avoid any reduction or

interruption of water service resulting from the lack of excess capacity in the Central Valley Project. In the event of a temporary reduction or interruption in water service, the CITY agrees to provide water service to RWSA2 from other existing sources of water within the CITY on a temporary basis until water service pursuant to the Exchange Contract resumes. At the request of the CITY, BBID and the CITY will work together to modify the Delivery Schedule to subsequently replace CITY water used during temporary reductions or interruptions in water service, provided there is sufficient available capacity.

10.3 If there is a reduction or interruption of water service as a result of causes beyond the control of BBID or because of action taken by BBID to meet the aforementioned legal obligations, no liability shall accrue against BBID or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom. Nothing in this Agreement shall relieve BBID from liability in the event of a reduction or interruption of wholesale water service to CITY resulting from the willful misconduct or gross negligence of BBID or its directors, officers, employees or agents.

11. MEASUREMENT OF EXCHANGE WATER.

11.1 CITY shall, at its sole expense, measure and record all Exchange Water delivered at the point of delivery described in Section 2.2. CITY shall maintain accurate records of the quantity of Exchange Water, expressed in acre-feet delivered, and shall provide such records to BBID upon request.

11.2 Following prior written notice to the CITY, BBID may investigate the accuracy of all measurements of Exchange Water. If the investigation discloses errors in the recorded measurements, such errors shall be promptly corrected. If the investigation discloses that the measurement devices are defective or inoperative, CITY shall make the appropriate repairs or replacements to the measurement devices at CITY's sole expense. In the event the CITY fails to make such repairs or replacements to the measurement devices within a reasonable time, BBID may cause such repairs or replacements to be made and CITY shall bear all costs associated with repair or replacement.

11.3 For any period of time during which accurate measurements of the Exchange Water have not been made, BBID and CITY, in consultation with Reclamation, shall jointly make a determination of the quantity of Exchange Water delivered for that period of time. Such determination shall be final and binding.

12. WATER QUALITY. The Parties acknowledge and agree that the Exchange Water to be supplied to pursuant to this Agreement is non-potable. CITY assumes all responsibility for producing a water supply of sufficient quality for municipal, industrial, and domestic use in compliance with all local, state, and federal requirements for the provision of potable water. BBID does not guarantee in any respect or assume responsibility for the chemical, bacterial, or other quality of the Exchange Water made available to the CITY or its compatibility for water treatment.

13. NO WATER RIGHT CONFERRED. Nothing in this Agreement shall confer upon CITY (i) any water right held by BBID including, without limitation, any pre-1914 appropriative right, post-1914 appropriative right or riparian right; (ii) any right in any water purchased by BBID from any other source. This Agreement shall be the sole source of the CITY's contractual right to receive wholesale water service from BBID.

14. RELATIONSHIP OF PARTIES. Nothing set forth in this Agreement shall be deemed or construed to create any relationship of principal and agent, a partnership, joint venture, or any other association between the Parties.

15. INDEMNIFICATION. Except for damage or loss resulting from willful misconduct or gross negligence, or breach of fiduciary obligation in connection with this Agreement, no Party to this Agreement, their members, directors, officers, agents, or employees shall be liable to any other Party for any loss or damage in connection with this Agreement. Each Party shall be responsible for the consequences of its own willful misconduct, gross negligence, and/or breach of fiduciary obligation in connection with this Agreement, and in connection with any work undertaken in accordance with this Agreement, and shall indemnify, defend, and hold harmless the other Parties, their members, directors, officers, agents, and employees from the consequences thereof to the extent allowed by law.

16. ASSIGNMENT. The Parties shall not assign, sell, or otherwise transfer interests under this Agreement without first receiving the prior written consent of the other Parties, which consent shall not be unreasonably withheld.

17. SEVERABILITY. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

18. ENTIRE AGREEMENT. This Agreement is the full and entire understanding of the Parties, and may not be altered except by a writing executed by the Parties hereto. The Parties agree that there are no warranties, either expressed or implied, no covenants or promises or expectations other than those contained and set forth in writing in this Agreement.

19. AMENDMENT. This Agreement may be amended only by a written instrument duly executed by the Parties.

20. WAIVER. The waiver or failure to declare a breach of this Agreement as a result of violation of any term or provision set forth in this Agreement shall not constitute a waiver of that term or condition and shall not provide the basis for a claim of estoppel.

21. NOTICES. All notices shall be in writing and shall be sent as follows:

BBID:
General Manager
Byron-Bethany Irrigation District
P.O. Box 160
Byron, CA 94514

CITY:
Public Works Director
City of Tracy Public Works
520 Tracy Boulevard
Tracy, CA 95376

IN WITNESS WHEREOF, the Parties to this Agreement have duly executed this Agreement on the date set forth opposite their signatures.

Authorized and approved for signature on:

_____, 2013 BYRON-BETHANY IRRIGATION DISTRICT

By:_____
Rick Gilmore, General Manager

ATTEST: By:_____

Title:_____

Authorized and approved for signature on:

_____, 2013 CITY OF TRACY

By:_____
Brent H. Ives, Mayor

ATTEST: By:_____
City Clerk

Authorized and approved for signature on:

_____, 2013

7995 Bruns Road
Byron, California 94514-1625

Telephone
(209) 835-0375
Fax
(209) 835-2869

General Manager
Secretary
Rick Gilmore

Byron-Bethany Irrigation District

Notice of Preparation of Negative Declaration

Project Title: Long-term Contract for the Exchange of Water between the Bureau of Reclamation and Byron-Bethany Irrigation District – Delta Division and San Luis Unit (Exchange Contract) and Wholesale Water Supply Agreement with the City of Tracy.

Project Location: The Proposed Project is in an agricultural area, 0.4 mile south of Kelso Road and 0.75 mile east of Bruns Road in Alameda County, California.

In accordance with the California Environmental Quality Act (CEQA) and based on the preparation of an Initial Study (IS), the Byron Bethany Irrigation District (BBID) has determined that an Environmental Impact Report (EIR) is not required to approve the Proposed Project.

This Negative Declaration is supported by BBID's IS-09-149 *Long-term Contract Between the United States and Byron Bethany Irrigation District: Providing for the Exchange of Non-project Water for Project Water Delta Division and San Luis Unit (Exchange Contract) and Wholesale Water Supply Agreement with the City of Tracy*, and is hereby incorporated by reference.

Introduction

BBID is a multicounty special district, established under state law primarily to provide water to lands in Alameda, Contra Costa, and San Joaquin Counties. BBID has two water service areas: a Central Valley Project (CVP) water service area (approximately 5,800 acres), which receives CVP water; and the Byron Service area (approximately 16,300 acres), which is served by non-CVP water. BBID is located in the vicinity of the City of Tracy (City), and portions of the district overlap with the current City boundaries as well as the City's sphere of influence. Although BBID is primarily an agricultural district, urban development has increased conversion of land use from agriculture to municipal and industrial (M&I). Since the 1990s, approximately 6,000 acres of land in BBID have been converted to M&I use. Under agreements with the City, BBID provides raw water for treatment and retail delivery to a portion of the M&I customers located within the area of overlapping City and District boundaries.

The approximately 6,000-acre Tracy Hills Development (Tracy Hills) has been proposed for construction in the southwestern portion of the City. The development would include up to 5,499 dwelling units, ranging from estate lots to apartments (Pacific Municipal Consultants, 1997). In 1998, the City annexed Tracy Hills; in 1999, 2,006 acres of Tracy Hills were annexed into BBID's Raw Water Service Area 2 (RWSA2) subsequent to the completion and

adoption of an EIR (City's 1997 *Tracy Hills Specific Plan Environmental Impact Report*), disclosing the anticipated impacts of the proposed development.

Because RWSA2 is located within BBID's Byron Service area, BBID intends to use a portion of their pre-1914 water right entitlement to accommodate the water needs of the development. Buildout of Tracy Hills is expected to occur over a period of 30 years, beginning in 2014.The 1999 BBID annexation agreement identified a potential need in RWSA2 for up to 6,000 acre-feet (AF) per year (AFY) of water. However, the annexation agreement was amended in 2003 to clarify the financial terms and water delivery options for Tracy Hills. Included among the changes to the annexation agreement was a reduction in the projected Tracy Hills water demand and, therefore, a reduction in the maximum BBID allocation of water needed in RWSA2. In accordance with the 2003 amended BBID annexation agreement, a maximum of 4,500 AFY of raw water is required to accommodate M&I demands within RWSA2.On May 28, 2003, BBID and the California Department of Water Resources (DWR) executed an agreement addressing their respective operations, including an acknowledgement by DWR of BBID's rights to divert up to 50,000 AFY of water from the San Joaquin-Sacramento River Delta (BBID and DWR, 2003). The 2003 agreement reaffirms BBID's current point of diversion in the intake channel (Milepost [MP] 1.83) to the Harvey O. Banks Pumping Plant. The 2003 agreement acknowledges that BBID may "furnish water … to the Tracy Hills portion of the District" (BBID and DWR, 2003). Pursuant to the 2003 agreement with DWR, delivery of water to Tracy Hills under BBID's pre-1914 water right is limited to months during the historical irrigation season (March through October). In order to deliver water to the development over a 12-month period, BBID has proposed the Tracy Hills Water Supply Project (Proposed Project). As part of the Proposed Project, BBID has requested that the Bureau of Reclamation (Reclamation) enter into a long-term exchange agreement and long-term license for erection, maintenance, and operation of a pipeline within Reclamation's rights-of way (ROW) for introduction of up to 4,500 AF of their pre-1914 water right water (non-CVP water), plus conveyance losses, at MP 3.32R on the Delta-Mendota Canal (DMC).

BBID also proposes to enter into a wholesale water supply agreement with the City of Tracy. Pursuant to that agreement BBID will provide up to 4,500 AFY of exchanged CVP water, plus conveyance losses, through the DMC to the City's water treatment plant for subsequent delivery to RWSA2.

Project Description

The Proposed Project includes the construction and operation of facilities to allow for the delivery of water supplies to accommodate the anticipated demand of Tracy Hills. BBID would introduce up to 4,500 AFY of its non-CVP water to meet Tracy Hills demand, and up to 225 AFY to account for conveyance losses in the DMC, at MP 3.32R between March and October, depending on the availability of excess capacity in the DMC. Introduced water would be exchanged with Reclamation at the point of introduction. Exchanged water would be delivered to MP 15.88L for treatment at the City's water treatment plant prior to delivery to Tracy Hills. Any exchanged water not delivered to MP 15.88L would be stored for later delivery. Introduction of non-CVP water would occur as scheduled annually with Reclamation and would be subject to excess capacity in the DMC, operational constraints, and environmental requirements.

No construction or modification to the DMC is required for the Proposed Project; however, improvements to existing BBID facilities as well as a new underground pipeline would be required for delivery of the non-CVP water using the DMC. Specific construction activities would include the following:

- **Pump Station.** Proposed Pump Station 3 improvements include a new pump, motor, and associated facilities. The current Pump Station 3 site would be modified slightly by installing a retaining wall to improve access. The existing 16-cubic feet per second (cfs) pump and motor would be replaced with a 20-cfs pump and 500-horsepower motor to accommodate increased pumping requirements. A new precast building would replace, and be in the same location as, the existing motor control center building. A new, reinforced concrete pad and larger transformer would replace the existing pole-mounted transformers. They would be located directly below the existing transformers.
- **Discharge Pipeline.** The proposed 30-inch-diameter pipeline would be approximately 0.4 mile long. A geotechnical investigation would be performed prior to construction. The investigation would consist of excavating up to three test pits, equally spaced along the pipeline route, at a depth of 6 to 7 feet and a top area of 6 by 10 feet. The pits would be backfilled after soil samples were obtained, and a report would be prepared to summarize the results of the investigation.

  Pipeline material would be either welded steel or ductile iron pipe. The pipeline would be aligned and buried in a general southern direction, directly between Pump Station 3 and the DMC. A turnout would be provided to deliver water at the intersection with Canal 155 to supplement the existing Canal 155 pump (11 cfs) as needed.

  The proposed pipeline would transition from belowground to aboveground at the DMC, and discharge near the headwall of the DMC. A concrete pad would likely be poured where the pipe leaves the ground. Pipe support also would likely be installed to support the aboveground pipe. The discharge would consist of a 45-degree elbow, angled toward the DMC. The discharge would be approximately 3 feet above the high-water level of the DMC to prevent siphoning.

  An underground corrugated pipe currently connects Canal 155 to an existing stock pond located west of Canal 155. Water leaves Canal 155 through a constructed feature that supplies a short surface flow of water before it goes back into the underground corrugated pipe and resurfaces to continue surface flow into the stock pond. The underground pipe would be temporarily removed during construction and replaced above the proposed pipeline after its installation. Water would be rerouted over the trench to the stock pond during construction. After construction, the entire length of the corrugated pipeline would be restored to its existing condition.

The total area of disturbance required to complete the proposed improvements at Pump Station 3 is approximately 0.5 acre, less than 0.2 acre of which would be permanent disturbance. In addition, a temporary approximate 2-acre laydown and stockpiling area would be required adjacent to and west of Pump Station 3. Installation of the pipeline would require a temporary 60-foot-wide disturbance area to accommodate the actual pipe trench, as well as construction equipment, excavated materials, pipe laydown, and access. Stabilization of the access road may temporarily disturb up to 0.5 acre.

Construction of the Proposed Project facilities is anticipated to take approximately 8 to 10 months to complete and is scheduled to be initiated late 2013. Pipeline installation is anticipated to take approximately 3 months, and work associated with Pump Station 3 improvements would likely take 4 to 5 months.

BBID's operation and maintenance of the proposed pipeline is expected to be limited to standard evaluation and repair, as necessary, and annual corrosion test readings.

Determination

As identified in IS-09-149, impact avoidance/mitigation measures (Table 1) to reduce anticipated environmental impacts have been incorporated in the Proposed Project. Based on the IS, it was determined that there would be no significant adverse environmental effects resulting from implementation of the Proposed Project with inclusion of all the identified impact avoidance /mitigation measures. The environmental impact analysis for all resource areas assumes the impact avoidance /mitigation measures specified would be fully implemented as part of the Proposed Project.

TABLE 1

Environmental Mitigation Measures and Commitments

Resource	Mitigation Measure
Water Resources	Prior to construction, a qualified Stormwater Pollution Prevention Plan (SWPPP) developer (QSD) would prepare a SWPPP, and a qualified SWPPP practitioner would implement the SWPPP in order to minimize the amount of pollutants discharged in stormwater from the site.
Biological Resources	At least 30 calendar days prior to ground disturbance, BBID shall: (a) purchase compensation land for the loss of habitat, place a U.S. Fish and Wildlife Service (USFWS)-approved conservation easement on that land, and arrange for USFWS-approved management and endowment; or (b) purchase and endow compensation land with a USFWS-approved conservation bank. <u>California red-legged frog (CRLF)</u> A USFWS-approved biologist would conduct pre-construction protocol level surveys for CRLF. Pumping facility construction would be limited to a fenced area less than 0.5 acre, and pipeline would be constructed between June 1 and September 30 (the period during which CRLF are considered least likely to move over land in the area). "Amphibian-friendly" barrier fencing, with bright-colored flagging, would be constructed and maintained within 50 feet of the pipeline construction corridor to restrict movement of CRLF from the nearby ponds into the Proposed Project area. Preventive measures would be implemented to reduce siltation and contaminated runoff in order to protect water quality within creeks

TABLE 1

Environmental Mitigation Measures and Commitments

Resource	Mitigation Measure
	and wetlands inhabited by CRLF. San Joaquin kit fox (SJKF) Pre-construction protocol-level surveys for SJFK shall be completed no fewer than 14 days and no more than 30 days prior to the onset of any ground-disturbing activity. Standard avoidance measures would be implemented prior to and during the proposed work. Specific attention would be provided to Proposed Project schedule and seasonal constraints associated with clearance of potential SJKF dens that may be natal dens. California tiger salamander (CTS) Small mammal burrows and other refugia suitable for aestivation habitat (e.g., underground holes, cracks, or niches), observed during the preconstruction surveys, would be retained for CTS in adjacent uplands. Burrowing Owl A protocol-level field survey for the burrowing owl would be completed prior to ground disturbance. Measures for avoiding take of burrowing owls would be implemented during construction. Specific attention should be provided to Proposed Project schedule and seasonal constraints associated with clearance of burrows (i.e., passive relocation), which may be occupied by nesting burrowing owls. *Trenches* Trenches would be covered overnight where feasible. If trenches must be left open, minimum 3:1 slope dirt ramps would be used for passive escape. *Construction* Work would be confined to daylight hours to minimize potential adverse effects to listed species because most activity by CRLF, CTS, and SJKF is nocturnal. *Monitoring* A USFWS-approved biologist would be onsite at the beginning of the Proposed Project and would visit the site periodically throughout construction to ensure that practicable measures are employed to avoid incidental disturbance of CRLF, CTS, and SJKF, and their habitats. Relocation of CRLF or CTS, if necessary, would be to the nearest suitable aquatic habitat or California ground squirrel burrow (as appropriate) outside the barrier fencing.

TABLE 1

Environmental Mitigation Measures and Commitments

Resource	Mitigation Measure
Cultural Resources	Cultural Resources If cultural resources or materials are discovered during ground-disturbing activities, the work near the discovery would cease and the area would be protected until the find is evaluated by an archaeologist who meets the Professional Qualification Standards stated in the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation*. In addition, Reclamation's archaeologist would be notified immediately. If human remains are encountered, the County Coroner would be notified of the find immediately. If the remains are determined to be Native American, the County Coroner would notify the Native American Heritage Commission (NAHC), which would determine and notify a most likely descendant (MLD). The MLD would complete an inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and analysis of human remains and items associated with Native American burials. Paleontological Resources If fossil remains are discovered during ground-disturbing activities, the work near the discovery would cease and the area would be protected until the find is evaluated by a qualified paleontologist. The paleontologist would be responsible for sampling and data recovery, if needed; museum storage coordination for specimens and data recovered; and reporting.
Air Quality and Climate Change	Idling times would be minimized by either shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage, such as speed limit identification, would be provided for construction workers at all access points. Exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) would be watered two times per day. Haul trucks transporting soil, sand, or other loose material offsite would be covered. Visible mud or dirt track-out onto adjacent public roads would be removed using wet-power vacuum street sweepers at least once per day. Dry-power sweeping would be prohibited. Construction equipment would be maintained and properly tuned in accordance with manufacturer's specifications. Equipment would be checked by a certified mechanic and determined to be running in proper condition prior to operation. Vehicle speeds on

TABLE 1

Environmental Mitigation Measures and Commitments

Resource	Mitigation Measure
	unpaved roads would be limited to 15 miles per hour (mph).
Geology and Soils	A site-specific geotechnical investigation would be performed at the site. A geotechnical report would be prepared that presents the results of the investigation as well as geotechnical engineering recommendations to aid in Proposed Project design and construction. Potentially problematic soil conditions encountered at the site would be identified, and design recommendations would address these conditions.
Hazards and Hazardous Waste	Before construction begins, the QSD would prepare an SWPPP that would include best management practices (BMPs) for managing and handling hazardous materials. The QSD also would define a protocol for emergency procedures and handling, and disposal of hazardous materials if an accidental spill was to occur during construction.
Hydrology and Water Quality	Before construction begins, the QSD would prepare an SWPPP to minimize the amount of pollutants discharged in stormwater from the site. BMPs would be selected and implemented based on the calculated risk level associated with the Proposed Project in accordance with California General Permit requirements. The BMP objectives for the construction phase of the Proposed Project follow: Control erosion and the discharge of sediment Control site perimeter Minimize disturbed areas Stabilize disturbed areas Protect slopes and channels Retain sediment Manage non-stormwater discharges and materials Practice good housekeeping Contain materials and wastes
Noise	Construction activities would be limited to weekdays during business hours, approximately 7 a.m. to 7 p.m.

Pursuant to the CEQA Guidelines adopted by BBID, this proposed Negative Declaration on the above-named Proposed Project has been prepared and is available for review at the BBID's office located at 7995 Bruns Road, Byron, California.

Final adoption of the Negative Declaration will be considered at the November 20, 2012 BBID Board of Director's meeting which commences at 9:00 am at 7995 Bruns Road; Byron, CA 94514.

Any comments on this action may be made to BBID in writing by November 2, 2012.

Mailing Address: Byron-Bethany Irrigation District
7995 Bruns Rd.
Byron, CA 94514

Public Draft Initial Study

Long-term Contract for the Exchange of Water between the Bureau of Reclamation and Byron-Bethany Irrigation District – Delta Division and San Luis Unit (Exchange Contract) and Wholesale Water Supply Agreement with the City of Tracy

Alameda County, California

IS-09-149

Byron-Bethany Irrigation District
7995 Bruns Road
Byron, California 94514

October 2012

Mission Statement

The mission of Byron-Bethany Irrigation District is to provide the water users of its Service Area with a reliable, affordable, and usable water supply, while facilitating programs that protect and benefit the groundwater basin and better utilize water supply resources.

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A Technical Memorandum: Biological Reconnaissance-level Survey for Tracy Hills Water Supply Project

B URBEMIS Version 9.2.4 Modeling Results

C Comprehensive List of Special-status Species

D Title 22 of California Code of Regulations

List of Acronyms and Abbreviations

$\mu g/m^3$	microgram(s) per cubic meter
AF	acre-feet
AFY	acre-feet per year
APE	area of potential effects
BAAQMD	Bay Area Air Quality Management District
BBC	Bumgardner Biological Consulting
BBID	Byron-Bethany Irrigation District
BMP	best management practice
CAA	Clean Air Act
CAAQS	California Ambient Air Quality Standards
Caltrans	California Department of Transportation
CCR	California Code of Regulations
CDFG	California Department of Fish and Game
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
cfs	cubic feet per second
City	City of Tracy
CNDDB	California Natural Diversity Database
CNPS	California Native Plant Society
CO	carbon monoxide
CO_2	carbon dioxide
CRLF	California red-legged frog
CTS	California tiger salamander
CVP	Central Valley Project
CVPIA	Central Valley Project Improvement Act
CWA	Clean Water Act
Delta	Sacramento-San Joaquin River Delta
District	Byron-Bethany Irrigation District

DMC	Delta-Mendota Canal
DWR	California Department of Water Resources
EA	Environmental Assessment
EIR	Environmental Impact Report
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
FONSI	Finding of No Significant Impact
GHG	greenhouse gas
I-	Interstate
IS	Initial Study
LOS	level of service
M&I	municipal and industrial
MBTA	Migratory Bird Treaty Act
MLD	most likely descendant
MP	milepost
mph	mile per hour
NAAQS	National Ambient Air Quality Standards
NAHC	Native American Heritage Commission
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NO_x	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
O_3	ozone
$PM_{2.5}$	particulate matter less than 2.5 microns in diameter
PM_{10}	particulate matter less than 10 microns in diameter
ppm	parts per million (by volume)
Proposed Project	Tracy Hills Water Supply Project

QSD	Qualified SWPPP Developer
Quads	7½ minute quadrangles
Reclamation	Bureau of Reclamation
ROW	right-of-way
RWSA2	Raw Water Service Area 2
SHPO	State Historic Preservation Office
SIP	State Implementation Plan
SJKF	San Joaquin kit fox
SMARTS	Storm Water Multiple Application and Report Tracking System
SO_2	sulfur dioxide
SWP	State Water Project
SWPPP	Stormwater Pollution Prevention Plan
Tracy Hills	Tracy Hills Development
Tribes	American Indian Tribes
USC	United States Code
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
Williamson Act	Land Conservation Act of 1965

Section 1 Objectives and Introduction

This Initial Study (IS) was prepared by Byron-Bethany Irrigation District (BBID or District) to satisfy the requirements of the California Environmental Quality Act (CEQA). BBID is the lead agency under CEQA.

1.1 Background

BBID is a multicounty special district, established under state law primarily to provide water to lands in Alameda, Contra Costa, and San Joaquin Counties. BBID has two water service areas: a Central Valley Project (CVP) water service area (approximately 5,800 acres), which receives CVP water, and the Byron Service area (approximately 16,300 acres), which is served by non-CVP water (Figure 1). BBID is located in the vicinity of the City of Tracy (City) and portions of the district overlap with the current City boundaries as well as the City's sphere of influence (Figure 1). Although BBID is primarily an agricultural district, urban development has increased conversion of land use from agriculture to municipal and industrial (M&I). Since the 1990s, approximately 6,000 acres of land in BBID have been converted to M&I use. Under agreements with the City, BBID provides raw water for treatment and retail delivery to a portion of the M&I customers located within the area of overlapping City and District boundaries.

The approximately 6,000-acre Tracy Hills Development (Tracy Hills) has been proposed for construction in the southwestern portion of the City (Figure 1). The development would include up to 5,499 dwelling units, ranging from estate lots to apartments (Pacific Municipal Consultants, 1997). In 1998, the City annexed Tracy Hills; in 1999, 2,006 acres of Tracy Hills was annexed into BBID's Raw Water Service Area 2 (RWSA2). Because RWSA2 is located within BBID's Byron Service area, BBID intends to use a portion of their pre-1914 water right entitlement to meet the water needs of the development. Buildout of Tracy Hills is expected to occur over a period of 30 years, beginning in 2014.

The 1999 BBID annexation agreement identified a potential need in RWSA2 for up to 6,000 acre-feet (AF) per year (AFY) of water. However, the annexation agreement was amended in 2003 to clarify the financial terms and water delivery options for Tracy Hills. Included among the changes to the annexation agreement was a reduction in the projected Tracy Hills water demand and, therefore, a reduction in the maximum BBID allocation of water needed in RWSA2. In accordance with the 2003 amended BBID annexation agreement, a maximum of 4,500 AFY of raw water is required to meet M&I purposes within RWSA2.

On May 28, 2003, BBID and the California Department of Water Resources (DWR) executed an agreement addressing their respective operations, including an acknowledgement by DWR of BBID's rights to divert up to 50,000 AFY of water from the San Joaquin-Sacramento River Delta (BBID and DWR, 2003). The 2003 agreement reaffirms BBID's current point of diversion in the intake channel (Milepost [MP] 1.83) to the Harvey O. Banks Pumping Plant. The 2003 agreement acknowledges that BBID may "furnish water … to the Tracy Hills portion of the District" (BBID and DWR, 2003). Pursuant to the 2003 agreement with DWR, delivery of water under BBID's pre-1914 water right to Tracy Hills is limited to months during the historical irrigation season (March through October). In order to deliver water to the development over a

12-month period, BBID has proposed the Tracy Hills Water Supply Project (Proposed Project). As part of the Proposed Project, BBID has requested that the Bureau of Reclamation (Reclamation) enter into a long-term exchange contract and long-term license for placement, maintenance, and operation of a pipeline within Reclamation's rights-of way (ROW) for introduction of up to 4,500 AF of their pre-1914 water right water (non-CVP water), plus conveyance losses, at MP 3.32R on the Delta-Mendota Canal (DMC).

1.2 Scope/Proposed Project Location and Setting

This IS was prepared to document the analysis of the potential environmental impacts associated with the wholesale agreement between BBID and the City to provide up to 4,500 AFY of exchanged CVP water, plus conveyance losses, through the DMC to the City's water treatment plant. The analysis focuses on those activities that are expected to affect the physical environmental (such as, possible impacts associated with the construction and operation of a pipeline to deliver BBID's non-CVP water to the DMC at MP 3.32R.

As discussed below, Reclamation is preparing an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA) to analyze the possible impacts of entering into a long-term (up to 40-year) exchange contract with BBID and associated required facilities, in addition to a long-term (up to 40-year) license with BBID for access to Reclamation's ROW.

This IS does not analyze the impacts of the buildout of Tracy Hills, because BBID does not have land use authority or jurisdiction over the development; also, such potential impacts have been previously analyzed. The City, which has land use authority over the Tracy Hills Development Project, has approved the Tracy Hills Specific Plan. Impacts relating to the Tracy Hills development were analyzed separately by the City under a Final Environmental Impact Report (SCH#1995122045) and certified by the City January 1, 1998 (City of Tracy, 1997).

The Proposed Project is in an agricultural area, 0.4 mile south of Kelso Road and 0.75 mile east of Bruns Road in Alameda County, California.

1.3 National Environmental Policy Act Compliance

Because the Proposed Project would utilize a federal facility (the DMC), and the proposed facility will encroach upon federal ROW, compliance with NEPA is required. As described above, Reclamation is the federal lead agency under NEPA and is preparing a separate environmental document to address potential impacts on the environment resulting from its federal action. BBID has continued to coordinate with Reclamation on the development of its EA, and this IS is based, in part, on Reclamation's EA (CEQA Guidelines §15228). This IS assumes the implementation of the mitigation measures (called "environmental commitments" in the EA) listed in Table 3 as part of the Proposed Project.

1.4 Environmental Permitting

Table 1 lists the permits and agency approvals required to implement the Proposed Project.

Table 1
Required Permits and Agency Approvals

Agency	Type of Permit or Approval	Regulated Activity	Authority
U.S. Fish and Wildlife Service (USFWS)	Section 7 consultation	Potential impacts on the continued existence of an endangered or threatened species, or destruction or adverse modification of the critical habitat of these species.	16 USC 1531 et seq.: 50 CFR Part 17, Sections 17.94-17.96 ESA
State Historic Preservation Office (SHPO)	Section 106 review and compliance	Consideration of effects on historic properties, including properties determined eligible for inclusion in the NRHP.	NHPA 36 CFR 800
Alameda County Community Development Agency	Transportation/ construction permit	Construction-related activities in county.	County Codes
State Water Resources Control Board	General construction stormwater NPDES permit	Stormwater discharges from construction activities disturbing 1 acre or more.	CWA
California Occupational Safety and Health Administration	Permits for construction, trench excavations, and demolition	Construction of trenches or excavations that are 5 feet or deeper and into which a person is required to descend.	California Labor Code Section 6500
California Department of Fish and Game (CDFG)	Section 2081 Management Agreement	Potential adverse effects on state endangered or threatened species or species proposed for state listing. Incidental "take" of state-protected species by a non-state entity.	Sections 2081(b) and (c) of the California ESA

Notes:
CFR = Code of Federal Regulations
CWA = Clean Water Act
ESA = Endangered Species Act
NHPA = National Historic Preservation Act
NPDES = National Pollutant Discharge Elimination System
NRHP = National Register of Historic Places
USC = United States Code

1.4.1 U.S. Fish and Wildlife Service

The federal Endangered Species Act (ESA) was enacted for the protection and recovery of species threatened with extinction. The ESA is administered by National Oceanic and

Atmospheric Administration (NOAA) Fisheries and USFWS. NOAA Fisheries (also known as National Marine Fisheries Service) is generally responsible for marine species and anadromous fish. USFWS is generally responsible for terrestrial species and freshwater fish species. Because only terrestrial species would potentially be affected by the Proposed Project, consultation would only be required with USFWS.

Section 7 of the ESA requires federal agencies to use their authority to conserve endangered species. It further directs federal agencies to consult with USFWS if any action they authorize, fund, or carry out "may affect" species listed or proposed to be listed, or critical habitat designated or proposed to be designated under the ESA.

1.4.2 State Historic Preservation Office

Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. Before granting a permit, Reclamation asks the SHPO to concur with its decision. To satisfy this requirement, an archaeological reconnaissance report must be completed for the Proposed Project sites to locate archaeological or tribal resources that could be affected by implementation of the Proposed Project.

1.4.3 California Department of Transportation

The use of California state highways for other than normal transportation purposes may require written authorization from the California Department of Transportation (Caltrans). Posting of signage on Caltrans' ROW for traffic control during construction requires an encroachment permit. In addition, transport of heavy or oversized loads on state roads during construction requires a Caltrans Transportation Permit.

1.4.4 Alameda County Community Development Agency

The Proposed Project and construction activities would be subject to Alameda County permits.

1.4.5 State Water Resources Control Board

The Clean Water Act (CWA) effectively prohibits discharges of stormwater from construction sites unless the discharge is in compliance with an NPDES permit. The State Water Resources Control Board is the permitting authority in California and has adopted a statewide General Permit for Stormwater Discharges Associated with Construction Activity (Water Quality Order No. 2009-0009-DWQ), which applies to projects resulting in 1 or more acres of soil disturbance. Before construction begins, the construction contractor's Qualified SWPPP Developer (QSD) would prepare a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP would list site best management practices (BMPs) that are effective in reducing or eliminating pollutants in stormwater discharges, and authorized non-stormwater discharges from construction activities, to the Best Available Technology/Best Control Technology standard.

1.4.6 California Occupational Safety and Health Administration

Generally, the California Occupational Safety and Health Administration requires permits for work that, by its nature, involves substantial risk of injury (8 California Code of Regulations [CCR] 341). The following types of work require a permit: (1) construction of trenches or excavations that are 5 feet or deeper and into which a person is required to descend; (2) construction or demolition of any building, structure, scaffolding, or falsework that is more

than three stories (36 feet) high; and (3) the underground use of diesel engines in working mines and tunnels.

1.4.7 California Department of Fish and Game

CDFG is responsible for the implementation of the California ESA. If a proposed project is likely to adversely affect state endangered or threatened species, or species proposed for state listing, the project proponent must consult with CDFG. Section 2080 of the Fish and Game Code prohibits “take” of any species that is determined to be an endangered species or a threatened species.

Section 2 Proposed Project Description

2.1 Proposed Project Description

The Proposed Project includes the construction and operation of facilities to allow for the delivery of water supplies to accommodate the anticipated demand of Tracy Hills. BBID would introduce up to 4,500 AFY of its non-CVP water to meet Tracy Hills demand, and up to 225 AFY to account for conveyance losses in the DMC, at MP 3.32R between March and October, depending on the availability of excess capacity in the DMC. Introduced water would be exchanged with Reclamation at the point of introduction. Exchanged water would be delivered to MP 15.88L for treatment at the City's water treatment plant prior to delivery to Tracy Hills. Any exchanged water not delivered to MP 15.88L would be stored for later delivery. Introduction of non-CVP water would occur as scheduled annually with Reclamation and would be subject to excess capacity in the DMC, operational constraints, and environmental requirements.

2.1.1 Facilities

No construction or modification to the DMC is required for the Proposed Project; however, improvements to existing BBID facilities as well as a new underground pipeline would be required for delivery of the non-CVP water to the DMC (Figure 2). Specific construction activities would include the following:

- **Pump Station (Figure 3).** Proposed Pump Station 3 improvements include a new pump, motor, and associated facilities. The current Pump Station 3 site would be modified slightly by installing a retaining wall to improve access. The existing 16-cubic feet per second (cfs) pump and motor would be replaced with a 20-cfs pump and 500-horsepower motor to accommodate increased pumping requirements. A new precast building would replace, and be in the same location as, the existing motor control center building. A new, reinforced concrete pad and larger transformer would replace the existing pole-mounted transformers. They would be located directly below the existing transformers.
- **Discharge Pipeline (Figures 3 and 4).** The proposed 30-inch-diameter pipeline would be approximately 0.4 mile long. A geotechnical investigation would be performed prior to construction. The investigation would consist of excavating up to three test pits, equally spaced along the pipeline route, at a depth of 6 to 7 feet and a top area of 6 by 10 feet. The pits would be backfilled after soil samples were obtained and a report prepared to summarize the results of the investigation.

  Pipeline material would be either welded steel or ductile iron pipe. The pipeline would be aligned and buried in a general southern direction, directly between Pump Station 3 and the DMC. A turnout would be provided to deliver water at the intersection with Canal 155 to supplement the existing Canal 155 pump (11 cfs) as needed.

  The proposed pipeline would transition from belowground to aboveground at the DMC, and discharge near the headwall of the DMC. A concrete pad would likely be poured where the pipe leaves the ground. Pipe support would likely be installed to support the aboveground pipe as well. The discharge would consist of a 45-degree elbow, angled toward the DMC.

The discharge would be approximately 3 feet above the high water level of the DMC to prevent siphoning.

An underground corrugated pipe currently connects Canal 155 to an existing stock pond located west of Canal 155. Water leaves Canal 155 through a constructed feature that supplies a short surface flow of water before it goes back into the underground corrugated pipe and resurfaces to continue surface flow into the stock pond. The underground pipe would be temporarily removed during construction and replaced above the proposed pipeline after its installation. Water would be rerouted over the trench to the stock pond during construction. After construction, the entire length of the corrugated pipeline would be restored to its existing condition.

The need for dewatering trenches along the pipeline route or near the DMC is not anticipated; however, if needed, trenches would be dewatered using portable sump pumps in accordance with a SWPPP to be prepared for the Proposed Project.

2.1.2 Access and Construction

Access to the Proposed Project site would be via an existing gravel access road, which connects Kelso Road to the pumping plant and proposed laydown area. Approximately 250 yards of the existing access road directly north of Pump Station 3 would be stabilized with a 30-foot-wide by 4-inch-thick layer of compacted aggregate base to allow for daily construction traffic (Figure 2).

Table 2 lists the total size of the Proposed Project area, broken down into individual Proposed Project components, and whether the associated acreage has no, temporary, and/or permanent construction impacts.

Table 2
Proposed Project Area and Areas of Construction Impacts

Location	Size (acres)	Construction Temporary Impacts (acres)	Construction Permanent Impacts (acres)	Not Impacted (acres)
Laydown Area	2	2	0	0
Pipeline Corridor	2.9	2.9	0	0
Pump Station 3	0.5	0.3	0.2	0
Access Road[a]	0.5	0	0	0.5
Total	5.9	5.2	0.2	0.5

[a]The access road (0.5 acre) will not be modified but was included in site surveys.

As listed in Table 2, the total area of disturbance required at the pump station to complete the proposed improvements is approximately 0.5 acre, less than 0.2 acre of which would be permanent disturbance. Proposed disturbance and laydown areas are shown on Figure 2. In addition, an approximately 2-acre laydown and stockpiling area would be required adjacent to and west of Pump Station 3. The laydown area would be used to temporarily store contractor equipment, spoils, and other materials, including pipe. Installation of the pipeline would require a temporary 60-foot-wide disturbance area to accommodate the actual pipe trench, as well as construction equipment, excavated materials, pipe laydown, and access. Access along the

pipeline corridor would be provided within the proposed 60-foot temporary work space required to install the pipeline.

There is little vegetation that would require clearing. The use of pesticides is not anticipated. Topsoil (if evident) would be stripped for the trench surface area and stockpiled to be returned later to the trench surface.

The integrity (quantity and quality) of adjacent aquatic habitat would be maintained through the use of a bypass to temporarily divert water flowing to the adjacent stock pond through the existing corrugated metal pipe that crosses the pipeline, as described previously.

Staging the site would take approximately one month, which would include stabilizing the access road, clearing and grubbing the pipeline corridor, and demolishing the pump station facilities to be replaced. Concurrent work would begin on pipeline installation and Pump Station 3 improvements (Figure 3).

Onsite construction equipment would include one excavator, one loader, one dump truck, one compactor, and one small crane. The approximate volume of earthwork required would be about 600 cubic yards of total cut, which would be spread out along the pipeline corridor upon completion. It is anticipated that no borrow material (from onsite sources) would be needed; but import material might be required for fill around pipeline.

Construction of the Proposed Project facilities is anticipated to take approximately 8 to 10 months to complete and is scheduled to be initiated late 2013. Pipeline installation is anticipated to take approximately 3 months, and work associated with the pump station improvements would likely take 4 to 5 months. Construction activities would be limited to weekdays during business hours, approximately between 7 a.m. and 7 p.m.

2.1.3 Operation and Maintenance

BBID's operation and maintenance of the proposed pipeline is expected to be limited to standard evaluation and repair as necessary, and annual corrosion test readings. The corrosion test readings will monitor pipeline resistance to corrosion as well as address any requirements provided for under the long-term license for the portion of the pipeline within Reclamation's ROW. Existing roads (dirt and gravel) would be used for access when needed.

BBID would supply power to operate and maintain BBID's facilities. No Project-use Power would be used for the Proposed Project.

2.2 CEQA Project Objectives

BBID, as the lead agency under CEQA, has the following objectives for the Proposed Project:

- Cooperatively implement the Proposed Project with Reclamation, including the long-term exchange contract.
- Complete and implement a wholesale water supply agreement with the City to provide up to 4,500 AFY of water through exchange to the City's water treatment plant.
- Ensure continued water deliveries to all existing customers during Proposed Project construction and operation.

2.3 Environmental Mitigation Measures

BBID shall implement the following environmental mitigation measures to reduce anticipated environmental impacts associated with the Proposed Project (see Table 3).

The environmental impact analysis for all resource areas assumes the mitigation measures specified below would be fully implemented as part of the Proposed Project.

Table 3
Environmental Mitigation Measures and Commitments

Resource	Mitigation Measure
Water Resources	Prior to construction, a QSD would prepare a SWPPP and a Qualified SWPPP Practitioner would implement the SWPPP in order to minimize the amount of pollutants discharged in stormwater from the site.
Biological Resources	At least 30 calendar days prior to ground disturbance, BBID shall (a) purchase compensation land for the loss of habitat, place a USFWS-approved conservation easement on that land, and arrange for USFWS-approved management and endowment; or (b) purchase and endow compensation land with a USFWS-approved conservation bank. <u>California red-legged frog</u> A USFWS-approved biologist would conduct pre-construction protocol level surveys for California red-legged frogs (CRLF). Pumping facility construction would be limited to a fenced area less than 0.5 acre, and pipeline would be constructed between June 1 and September 30 (the period during which CRLF are considered least likely to move over land in the area). “Amphibian-friendly” barrier fencing, with bright-colored flagging, would be constructed and maintained within 50 feet of the pipeline construction corridor to restrict movement of CRLF from the nearby ponds into the Proposed Project area. Preventive measures would be implemented to reduce siltation and contaminated runoff so as to protect water quality within creeks and wetlands inhabited by CRLF. <u>San Joaquin kit fox</u> Pre-construction protocol-level surveys for San Joaquin kit fox (SJFK) shall be completed no fewer than 14 days and no more than 30 days prior to the onset of any ground-disturbing activity. Standard avoidance measures would be implemented prior to and during the proposed work. Specific attention would be provided to Proposed Project schedule and seasonal constraints associated with clearance of potential SJKF dens that may be natal dens. <u>California tiger salamander</u> Small mammal burrows and other refugia suitable for aestivation habitat (e.g., underground holes, cracks, or niches), observed during the preconstruction surveys would be retained for California tiger salamander (CTS) in adjacent uplands.

Table 3
Environmental Mitigation Measures and Commitments

Resource	Mitigation Measure
	Burrowing Owl A protocol-level field survey for the burrowing owl would be completed prior to ground disturbance. Measures for avoiding "take" of burrowing owls would be implemented during construction. Specific attention should be provided to Proposed Project schedule and seasonal constraints associated with clearance of burrows (i.e., passive relocation), which may be occupied by nesting burrowing owls. *Trenches* Trenches would be covered overnight where feasible. If trenches must be left open, minimum 3:1 slope dirt ramps would be used for passive escape. *Construction* Work would be confined to daylight hours to minimize potential adverse effects to listed species because most activity by CRLF, CTS, and SJKF is nocturnal. *Monitoring* A USFWS-approved biologist would be onsite at the beginning of the Proposed Project and would visit the site periodically throughout construction to ensure that practicable measures are employed to avoid incidental disturbance of CRLF, CTS, and SJKF and their habitats. Relocation of CRLF or CTS, if necessary, would be to the nearest suitable aquatic habitat or California ground squirrel burrow (as appropriate) outside the barrier fencing.
Cultural Resources	Cultural Resources If cultural resources or materials are discovered during ground-disturbing activities, the work near the discovery would cease and the area would be protected until the find is evaluated by an archaeologist who meets the Professional Qualification Standards stated in the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation*. In addition, Reclamation's archaeologist would be notified immediately. If human remains are encountered, the County Coroner would be notified of the find immediately. If the remains are determined to be Native American, the County Coroner would notify the Native American Heritage Commission (NAHC), which would determine and notify a most likely descendant (MLD). The

Table 3
Environmental Mitigation Measures and Commitments

Resource	Mitigation Measure
	MLD would complete an inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and analysis of human remains and items associated with Native American burials. <u>Paleontological Resources</u> If fossil remains are discovered during ground-disturbing activities, the work near the discovery would cease and the area would be protected until the find is evaluated by a qualified paleontologist. The paleontologist would be responsible for sampling and data recovery, if needed; museum storage coordination for specimens and data recovered; and reporting.
Air Quality and Climate Change	Idling times would be minimized by either shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of CCR). Clear signage, such as identifying speed limits, would be provided for construction workers at all access points. Exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) would be watered two times per day. Haul trucks transporting soil, sand, or other loose material offsite would be covered. Visible mud or dirt track-out onto adjacent public roads would be removed using wet-power vacuum street sweepers at least once per day. Dry-power sweeping would be prohibited. Construction equipment would be maintained and properly tuned in accordance with manufacturer's specifications. Equipment would be checked by a certified mechanic and determined to be running in proper condition prior to operation. Vehicle speeds on unpaved roads would be limited to 15 miles per hour (mph).
Geology and Soils	A site-specific geotechnical investigation would be performed at the site. A geotechnical report would be prepared that presents the results of the investigation as well as geotechnical engineering recommendations to aid in Proposed Project design and construction. Potentially problematic soil conditions encountered at the site would be identified, and design recommendations would address these conditions.
Hazards and Hazardous Waste	Before construction begins, the QSD would prepare an SWPPP that would include BMPs for managing and handling hazardous materials. The QSD also would define a protocol for emergency procedures and handling, and disposal of hazardous materials if an accidental spill occurs during construction.

Table 3
Environmental Mitigation Measures and Commitments

Resource	Mitigation Measure
Hydrology and Water Quality	Before construction begins, the QSD would prepare an SWPPP to minimize the amount of pollutants discharged in stormwater from the site. BMPs would be selected and implemented based on the calculated risk level associated with the Proposed Project in accordance with California General Permit requirements. The BMP objectives for the construction phase of the Proposed Project follow: • Control erosion and the discharge of sediment – Control site perimeter – Minimize disturbed areas – Stabilize disturbed areas – Protect slopes and channels – Retain sediment • Manage non-stormwater discharges and materials – Practice good housekeeping – Contain materials and wastes
Noise	Construction activities would be limited to weekdays during business hours, approximately 7 a.m. to 7 p.m.

Section 3 Existing Setting and Environmental Impacts

This section presents the existing setting and anticipated environmental impacts associated with the implementation of the Proposed Project. Impacts associated with the development of Tracy Hills are not discussed as part of the analysis because they are outside BBID's authority. As discussed above, the mitigation measures identified above in Table 3 are assumed to be implemented as part of the Proposed Project.

3.1 Water Resources

3.1.1 Existing Setting

3.1.1.1 Surface Water

The Proposed Project area lies within the San Joaquin River drainage area. Typical annual rainfall in the Proposed Project area is approximately 13 inches, with most rainfall occurring in the fall to early spring. Storm drainage within the Proposed Project area is influenced by the presence and operation of BBID's water conveyance system, but generally flows northward.

Central Valley Project. The Delta Division of the CVP provides for the transport of water through the central portion of the Central Valley, including the Sacramento-San Joaquin River Delta (Delta). The main features of the division are the Delta Cross Channel, Contra Costa Canal, C.W. "Bill" Jones Pumping Plant (Jones Pumping Plant, formally the Tracy Pumping Plant), and the DMC (constructed and operated by Reclamation). This system provides full and supplemental water, as well as temporary water service, for a total of about 380,000 acres of farmland.

Delta-Mendota Canal. The DMC, completed in 1951, is the second-largest of the CVP waterways. The DMC includes a combination of both concrete-lined and earth-lined sections. It is about 117 miles long and has a capacity of 4,600 cfs. The canal transports water from the Jones Pumping Plant to the Mendota Pool for distribution to refuges, irrigation supply, and M&I users, and to replace San Joaquin River water stored by Friant Dam and used in the Friant-Kern and Madera Canals. The DMC is divided into upper and lower portions. The dividing point is Check 13, the intake to the O'Neill Forebay and San Luis Reservoir. Mendota Pool is the terminus for the DMC at the confluence of the San Joaquin River and the North Fork of the Kings River, approximately 30 miles west of the city of Fresno. Capacity in the DMC is restricted by the physical limitations of the canal and the pumping limits of the Jones Pumping Plant (Reclamation, 2011).

Byron-Bethany Irrigation District. BBID is a multicounty special district, established under state law primarily to provide water to lands in Alameda, Contra Costa, and San Joaquin Counties. BBID has two water service areas: the CVP service area (approximately 5,800 acres) and the Bryon Service area (approximately 16,300 acres). Because the Proposed Project lies within the Byron service area, it is the principal focus of this analysis. BBID conducted a water supply study prior to the 1999 annexation and determined that, because of water use efficiency and

conversion of agricultural lands to urban areas, there was an adequate supply of water to meet the projected need in RWSA2.

BBID's point of diversion is at MP 1.83 of the intake channel to the Harvey O. Banks Pumping Plant. A portion of BBID's water supply is based on pre-1914 water rights that were established by the Byron-Bethany Irrigation Company (the original name of BBID). In 1921, BBID acquired the Company's irrigation facilities and water rights. BBID asserts claims under this pre-1914 water right for reasonable and beneficial use of 60,000 AFY. In exchange for operational certainty, BBID has agreed to limit its diversion from the Delta to 50,000 AFY through an agreement with DWR (BBID and DWR, 2003). BBID primarily provides water for agricultural uses; however, a portion of BBID's water is used for M&I purposes. BBID's diversion facilities were moved to the State Water Project (SWP) Banks Pumping Plant Intake Channel in 1964, when the SWP was constructed. The proximity of BBID facilities relative to DWR's SWP has provided for ongoing coordination of operations and led to defining relative rights and responsibilities in the 2003 agreement. BBID's diversion facility at Pump Station 1-S is downstream from the SWP Skinner Fish Facility, which protects Delta fish species of concern from entrainment at the SWP Banks Pumping Plant.

The distribution system is segregated into the Byron Division (north of the Banks Intake Channel) and the Bethany Division (south of the Banks Intake Channel). Open canals and pump stations are the primary distribution system infrastructure, but major portions of the system consist of pipelines to deliver water supplies to customers during the irrigation season. The immediate Proposed Project area includes Canals 70, 120, and 155 and Pump Station 3. Water is conveyed from Pump Station 1-S to Canal 45, to Pump Station 2. Water is pumped into Canal 70 and conveyed to Pump Station 3, where it is pumped into Canals 120 and 155. Pump Station 3's capacity is 30 cfs, with current peak flows at 15 cfs for agricultural customers during the irrigation season.

In addition, a private stock pond and drainage feature are in the general Proposed Project area, directly west of the proposed pipeline alignment. The approximately 1-acre stock pond is not managed by BBID. An ephemeral drainage that originates at the Bethany Reservoir is west of the Proposed Project area.

3.1.1.2 Water Quality

The quality of BBID's water supply depends on the time of year and Delta hydrology and operations, but is sufficient for intended agricultural and M&I uses (CH2M HILL, 2001). BBID's water supply is of equivalent quality to the source water for the SWP (same source, common facilities) and of similar quality to CVP water pumped at Jones Pumping Plant into the DMC.

3.1.1.3 Groundwater Resources

BBID is within the Tracy groundwater subbasin. Groundwater within the subbasin occurs within the Upper and Lower Zones, which are separated by the Corcoran Clay (Reclamation, 2010a). The Upper Zone contains both semiconfined and unconfined water in an upper section of the Tulare Formation, and younger deposits above the Corcoran Clay. Although semiconfined in some regions, the Upper Zone is commonly referred to as the unconfined aquifer. The Lower Zone contains confined water in a lower section of the Tulare Formation, below the Corcoran Clay. The cumulative thickness of the Tulare Formation deposits ranges from a few hundred feet

near the Coast Range foothills to the west of the DMC to about 3,000 feet along the trough of the valley below the San Joaquin River (Reclamation, 2010a).

Groundwater levels studied within this area were reported to be at their lowest levels in the late 1960s, before surface water was imported (Reclamation, 2010b). After the CVP began delivery to the area in 1967, groundwater levels gradually increased, falling temporarily during the 1976-1977 droughts. Generally, the subbasin groundwater levels increased by approximately 2 feet from 1970 to 2000, and groundwater levels have fluctuated around this level since that time, with no clear trend.

3.1.2 Environmental Impacts

3.1.2.1 Proposed Project Impacts

Construction Impacts. Construction activities associated with the Proposed Project would be timed to avoid affecting water deliveries to existing users within the District. The proposed improvements at or near Pump Station 3 would not disturb soil below the water level in the intake channel; so, any groundwater encountered would be minimal and addressed through use of portable sump pumps in accordance with BMPs identified in the SWPPP referenced in Table 3. Dewatering trenches along the pipeline route or near the DMC is not anticipated; however, if needed, trenches would also be dewatered using portable sump pumps in accordance with the SWPPP.

Surface water quality could be affected during construction of the Proposed Project. Erosion of stockpiles and spoil piles could potentially affect the ephemeral water feature and stock pond east and downslope of the Proposed Project. As identified in Table 3, the contractor would prepare a SWPPP to minimize the amount of pollutants discharged into stormwater from the site. BMPs would be selected and implemented based on the calculated risk level associated with the Proposed Project in accordance with California General Permit requirements.

No significant construction-related impacts on water resources would occur.

Operational Impacts. The quantity of water to be conveyed to Reclamation for the Proposed Project is within BBID's water right entitlement and is insignificant or negligible in the context of the diversions by the SWP from the same source. In addition, BBID considered other potential service demands, such as development in-district, in the water supply study prior to the 1999 annexation. The proposed delivery of water to Tracy Hills does not add to or affect the other service demands of BBID. The water quality standards of the non-CVP water to be stored and conveyed in the DMC would meet those set out in Title 22 of the CCR. Operational activities associated with the Proposed Project would not affect water resources.

No significant operations-related impacts on water resources would occur.

3.1.2.2 Cumulative Impacts

BBID has entered into a long-term water transfer agreement with Zone 7 of the Alameda County Flood Control and Water Conservation District. Under this agreement, Zone 7 may purchase up to 5,000 AF of surplus water, with a minimum delivery of 2,000 AF from BBID for use within Zone 7. Surplus water is made available from BBID through temporary fallowing, permanent conversion of farmland, and water conservation. The Zone 7 water transfer was accounted for in the previously mentioned BBID water supply evaluation. In addition, the sale of surplus water is

of a secondary priority to BBID, the first being meeting all of its in-district demands which includes RWSA2 demand.

A 500 linear feet intertie has been constructed by Reclamation and DWR in an unincorporated area of the San Joaquin Valley in Alameda County, west of the City. The intertie, a shared federal-state water system improvement that connects the DMC and the California Aqueduct, addresses DMC conveyance conditions that had restricted use of the Jones Pumping Plant to less than its design capacity, potentially restoring as much as 35,000 AF of average annual deliveries to the CVP. Reclamation and DWR prepared an Environmental Impact Statement/EIR for the intertie and a Record of Decision was completed December 28, 2009 (Reclamation 2012a). As operation of the intertie would provide BBID with additional water supply reliability, the Proposed Project would not result in cumulative impacts to water resources.

BBID, Banta-Carbona Irrigation District, Patterson Irrigation District, and West Stanislaus Irrigation District executed five-year Warren Act contracts with Reclamation for the conveyance and storage per contractor of up to 10,000 AFY of non-CVP surface water in the DMC through February 28, 2016. The project was analyzed in EA-09-156, *Five-year Warren Act Contracts for Banta-Carbona Irrigation District, Byron Bethany Irrigation District, Patterson Irrigation District, and West Stanislaus Irrigation District* and a Finding of No Significant Impact (FONSI) was signed on March 8, 2010 (Reclamation 2010). In April 2012, BBID requested approval to deliver up to 5,000 AFY of their non-CVP water to Westlands Water District via the San Luis Canal. The additional points of delivery were analyzed in supplemental EA-12-052 Additional *Point of Delivery for Byron Bethany Irrigation District's non-Central Valley Project Water to Westlands Water District* and a FONSI was signed on June 15, 2012 (Reclamation 2012b). BBID proposed to introduce for transfer or exchange up to 9,725 AFY of their pre-1914 entitlement into the DMC which is approximately 19 percent of their entitlement and would not impact BBID's ability to service other agricultural or urban water users; therefore, the Proposed Project would not cumulatively impact surface water resources within BBID.

The Proposed Project would not result in short- or long-term impacts on water resources; therefore, there would not be cumulative effects to water resources.

3.2 Land Use

3.2.1 Existing Setting

Although BBID is primarily an agricultural district, portions of the District overlap with the City's current boundaries and are within the sphere of influence for the City. Because of recent urbanization and other factors, the amount of agricultural lands in production has been generally declining. In addition to the variation in cropping from year to year, a limited number of growers in the District occasionally fallow (not irrigate) portions of their land. Fallowing land can also be attributed to a number of factors, such as market conditions, desirability to rotate crops off a portion of property to improve productivity, and grower preference.

Since 1990, approximately 6,000 acres of land have been converted from agriculture to M&I use. BBID works with the development community to provide water for M&I uses as appropriate (Gilmore, 2011).

The construction activities associated with the Proposed Project are located in an unincorporated part of Alameda County, mostly on private land approximately 6 miles southeast of Byron. The land is classified by the California Department of Conservation, Division of Land Resource Protection, as "Grazing Land," which is defined as "land on which the existing vegetation is suited to the grazing of livestock" (California Department of Conservation, 2008). The Proposed Project is currently zoned as agriculture, with a General Plan designation as large-parcel agriculture by Alameda County (City of Tracy, 2006), and the primary use on the Proposed Project area is grazing. The affected parcels are also bound in Land Conservation Act of 1965 (Williamson Act) contracts.

3.2.2 Environmental Impacts

3.2.2.1 Proposed Project Impacts

During construction, approximately 5.4 acres of grazing land would temporarily be taken out of production (a temporary loss of 5.2 acres and permanent loss of up to 0.2 acre). After construction, the Proposed Project area would be restored to its original use.

The construction activities associated with the Proposed Project would not conflict with existing zoning for agricultural use or promote the conversion of farmland to non-agricultural use because impacts either would be temporary or would occur in areas already containing irrigation facilities. Although a portion of this area is listed under Williamson Act contracts, the construction of irrigation facilities is considered to be a compatible agricultural use and would not change its land use designation. The Proposed Project would not lead to long-term land use changes or require planning decisions.

Therefore, the Proposed Project would not result in adverse impacts on land use or agricultural resources.

3.2.2.2 Cumulative Impacts

In recent years, land use changes within the San Joaquin Valley have involved the urbanization of agricultural lands. These types of changes are typically driven by economic pressures and are as likely to occur with or without the Proposed Project. In addition, land use within the Proposed Project area would be returned to its current use once construction was complete.

Accordingly, no cumulative adverse impacts on land use are anticipated.

3.3 Biological Resources

3.3.1 Existing Setting

Reconnaissance-level field surveys within the Proposed Project area were conducted on September 16, 2009 (Appendix A), and on June 25, 2010 (Bumgardner Biological Consulting [BBC], 2010), to characterize the Proposed Project site's biological setting and assess the potential for Proposed Project-related effects on sensitive biological resources. During the field reconnaissance surveys, information on the Proposed Project area's biological resources, such as dominant vegetation type, habitat features, and overall site conditions, was noted. These resources were further evaluated as to their potential to support special-status plant and wildlife species in the area.

3.3.1.1 Wetlands

Wetlands vegetation is associated with features west and downslope of the Proposed Project. An ephemeral drainage that originates at the Bethany Reservoir and a stock pond are near the western edge of the Proposed Project area (Figure 2). The portion of the ephemeral drainage adjacent to the Proposed Project area does not have a riparian vegetation type as defined by Holland (1986) or Sawyer and Keeler-Wolf (1995). The stock pond is a perennial water source, and, as such, wetland vegetation components occur along the margins of the pond. The species associated with the pond include rabbits foot grass (*Polypogon monspeliensis*), rush (*Scirpus acutus*), mana grass (*Glyceria* sp.), spike rush (*Eleocharis macrostachya*), and grazed rush (*Juncus* sp.).

The sources of water to the stock pond are wet-season surface flows, from the watershed of the pond, and seasonal flows, from an upslope pipe that exits from under Canal 155.

3.3.1.2 Vegetation

Wetland "seep" vegetation (such as *Juncus* sp.) occurs upslope of the stock pond along a narrow swath that runs parallel to Canal 155 and is apparently associated with leakage from the unlined canal. No water pools are associated with this seep vegetation given the slope of the embankment. The vegetation is maintained by saturated soils. The seep is not considered a jurisdictional water of the United States given that it is supported by water from a constructed water conveyance structure (see Appendix A).

The Proposed Project area is dominated by California annual grassland (CDFG, 2003; Holland, 1986). California annual grassland (42.040.00 in the CDFG Vegetation Classification and Mapping Program) is characterized by dense annual grasses and forbs. This classification corresponds to Holland's non-native grassland (1986). This is a naturalized community, although most of the species are non-native. Dominant plant species observed in the Proposed Project area include yellow star-thistle (*Centaurea solstitialis*), rat-tail fescue (*Vulpia myuros*), gum plant *(Grindelia* sp.*)*, and dove weed *(Croton setigerus)*. While most of the grassland habitat in the area is actively grazed, it provides valuable habitat for plants and wildlife.

3.3.1.3 Wildlife

Wildlife species observed during the reconnaissance-level field surveys are typical of non-native grassland habitat and include the following species: California ground squirrel (*Otospermophilus beecheyi*), loggerhead shrike (*Lanius ludovicianus*), western meadowlark (*Sturnella neglecta*), and cliff swallow (*Petrochelidon pyrrhonota*).

Special-status Species and Critical Habitat. Special-status species potentially occurring in the Proposed Project area were identified, in part, through requesting an official species list from USFWS via the Sacramento Field Office's Web site on January 26, 2011. The list is for the following U.S. Geological Survey (USGS) 7½ minute quadrangles (Quads): Tracy, Midway, Altamont, Holt, Union Island, Woodward Island, Brentwood, Byron Hot Springs, and Clifton Court Forebay. Reclamation further queried the CDFG California Natural Diversity Database (CNDDB) for records of protected species within 10 miles of the Proposed Project location (Figure 5). Table 4 was created from the USFWS species list, CNDDB records, California Native Plant Society (CNPS) online *Inventory of Rare and Endangered Vascular Plants of California* (CNPS, 2009), additional information from within Reclamation's files, and based on

the reconnaissance-level field surveys within the Proposed Project area (Appendix A and BBC, 2010).

Table 4
Federally Listed Species and Critical Habitats

Species	Status[a]	Effects[b] (species; critical habitat)	Occurrence in the Study Area[c]
Amphibians			
CRLF (*Rana draytonii*)	T, X	MAA; MAA	**Present**. CNDDB[d]-recorded occurrences in action area. Primary constituent elements for critical habitat present.
CTS, central population (*Ambystoma californiense*)	T	MAA	**Present**. CNDDB-recorded occurrences in action area. Suitable habitat present.
Fish			
Central California Coastal steelhead (*Oncorhynchus mykiss*)	T NMFS	NE	**Absent**. No natural waterways within the species' range would be affected by the Proposed Project.
Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*)	T NMFS	NE	**Absent**. No natural waterways within the species' range would be affected by the Proposed Project.
Central Valley steelhead (*Oncorhynchus mykiss*)	T, X NMFS	NE; NE	**Absent**. No natural waterways within the species' range would be affected by the Proposed Project.
delta smelt (*Hypomesus transpacificus*)	T, X	NE; NE	**Absent**. No natural waterways within the species' range would be affected by the Proposed Project.
green sturgeon (*Acipenser medirostris*)	T NMFS	NE	**Absent**. No natural waterways within the species' range would be affected by the Proposed Project.
winter-run Chinook salmon, Sacramento River (*Oncorhynchus tshawytscha*)	E NMFS	NE	**Absent**. No natural waterways within the species' range would be affected by the Proposed Project.

Table 4
Federally Listed Species and Critical Habitats

Species	Status[a]	Effects[b] (species; critical habitat)	Occurrence in the Study Area[c]
Invertebrates			
Conservancy fairy shrimp (*Branchinecta conservatio*)	E	NE	**Absent**. No individuals or vernal pools in the Proposed Project area.
longhorn fairy shrimp (*Branchinecta longiantenna*)	E, X	NE; NE	**Absent**. No individuals or vernal pools in the Proposed Project area. Proposed Project area not within designated critical habitat.
valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*)	T	NE	**Absent.** No individuals or habitat in the Proposed Project area.
vernal pool fairy shrimp (*Branchinecta lynchi*)	T, X	NE; NE	**Absent**. No individuals or vernal pools in the Proposed Project area. Proposed Project area not within designated critical habitat.
vernal pool tadpole shrimp (*Lepidurus packardi*)	E	NE	**Absent**. No individuals or vernal pools in the Proposed Project area.
Mammals			
riparian brush rabbit (*Sylvilagus bachmani riparius*)	E	NE	**Absent**. No CNDDB-recorded occurrences in Proposed Project area.
SJKF (*Vulpes macrotis mutica*)	E	MAA	**Present**. Several CNDDB-recorded occurrences in vicinity of the action area. Suitable foraging habitat is present and small mammal burrows located onsite may provide denning opportunities for this species.
Plants			
Contra Costa goldfields (*Lasthenia conjugens*)	E, X	NE; NE	**Absent**. No individuals or habitat in the Proposed Project area. Proposed Project area not within designated critical habitat.

Table 4
Federally Listed Species and Critical Habitats

Species	Status[a]	Effects[b] (species; critical habitat)	Occurrence in the Study Area[c]
large-flowered fiddleneck (*Amsinckia grandiflora*)	E, X	NE; NE	**Absent**. No individuals or habitat in the Proposed Project area. Proposed Project area not within designated critical habitat.
palmate-bracted bird's-beak (*Cordylanthus palmatus*)	E	NE	**Absent**. No individuals or habitat in the Proposed Project area.
Reptiles			
Alameda whipsnake (*Masticophis lateralis euryxanthus*)	T, X	NE; NE	**Absent**. No individuals or habitat in the Proposed Project area. Proposed Project area not within designated critical habitat.
giant garter snake (*Thamnophis gigas*)	T	NE	**Absent**. No individuals or habitat in the Proposed Project area.

[a] Status:
E = Listed as Endangered
NMFS = Species under the Jurisdiction of the National Marine Fisheries Service
P = Bird species protected under the Migratory Bird Treaty Act (MBTA)
T = Listed as Threatened
X = Critical habitat designated for this species

[b] Effects – Effect determination:
MAA = May adversely affect
NE = No Effect

[c] Definition of Occurrence Indicators:
Present = Species recorded in area and suitable habitat present
Unlikely = Species recorded in area but habitat suboptimal or lacking entirely
Absent = Species not recorded in study area and/or habitat requirements not met

[d] CDFG, 2011

Federally Listed Species and Critical Habitat.

California Red-legged Frog. CRLFs breed from November through March, with earlier breeding records occurring in southern localities (Storer, 1925). The frogs breed when water temperatures are cool enough for embryonic survival and sufficient water exists for larval growth to metamorphosis. Egg masses are attached to emergent vegetation.

Jennings and Hayes (1985) found that CRLFs were extant in 81 percent of sites lacking bullfrogs and most likely were completely extinct from sites with bullfrogs. California ranids have evolved under conditions of limited fish predation because California possesses only a small number of native fish species that prey on vertebrates. Most of the more than 50 exotic and transplanted species in California are known to prey on frogs or their premetamorphic stages (Moyle, 1976).

CRLFs often occupy burrows in upland areas, and they may use burrows located closer to riparian areas. Non-breeding CRLFs have been found in both aquatic and upland habitats. The majority of individuals prefer dense, shrubby, or emergent vegetation closely associated with deep, still, or slow-moving water. However, some individuals use upland habitats that are removed from aquatic habitats, seeking cover in ground squirrel burrows and non-native grasslands. Estivation habitat includes areas up to 300 feet from a stream corridor and those with natural features, such as boulders, rocks, trees, shrubs, and logs. CRLFs may use upland estivation sites when water levels are low or water temperatures are high, such as in the summer and early fall months.

CRLFs are found in ponds and intermittent and permanent streams with slow or still water. Both aquatic and upland habitats for the species are present in the action area. According to the CNDDB, multiple occurrences have been documented within 1 mile of the Proposed Project site (CDFG, 2011). The nearest of these occurrences is associated with a 0.5-acre artificial impoundment in a historical drainage near an adjacent marshy area, which is protected from cattle by fencing. This occurrence is located approximately 0.5 mile west of Mountain House School, at Mountain House Road, and is approximately 0.3 mile east of the Proposed Project site. The next nearest occurrence is associated with an intermittent creek located just southeast of the intersection of Kelso Road and Bruns Road. This latter occurrence is approximately 0.7 mile northwest of the Proposed Project site. The proximity of these occurrences, as well as two suitable breeding ponds near the Proposed Project site (within approximately 1,620 and 170 feet, respectively), suggest that the CRLF is considered to have a high potential to be present within the action area (Appendix A and BBC, 2010).

California Red-legged Frog Critical Habitat. The Proposed Project action area lies predominantly within CRLF Critical Habitat Unit CCS-2B of the Mount Diablo region of critical habitat (CDFG, 2011).

California Tiger Salamander. CTSs require two major habitat components: aquatic breeding sites and terrestrial refuge sites. CTSs inhabit valley and foothill grasslands and the grassy understory of open woodlands, usually within 1 mile of water (Jennings and Hayes, 1994). The CTS is terrestrial as an adult and spends most of its time underground in subterranean refugia. Underground retreats usually consist of ground squirrel burrows and occasionally human-made structures. Adults emerge from underground to breed, but only for brief periods during the year. CTSs breed and lay their eggs primarily in vernal pools and other ephemeral ponds that fill in winter and often dry out by summer (Loredo et al., 1996). They sometimes use permanent human-made ponds (e.g., stock ponds), reservoirs, and small lakes that do not support predatory fish or bullfrogs (Zeiner et al., 1988). Streams are rarely used for reproduction. Amphibians require cool water during larval development, and the CTS cannot tolerate temperatures higher than 80 degrees.

The CTS has been documented within the vicinity of the action area (CDFG, 2011), with the nearest of these occurrences associated with three ponds approximately 0.9 mile due west of the

Proposed Project site, on the Borges Ranch Mitigation Property. These ponds are immediately north and south of Christensen Road, and west of Bruns Road. The CTS has also been documented in a seasonal stock pond approximately 480 feet north of the intersection of Bruns Road and Kelso Road (approximately 1 mile northwest of the Proposed Project site). The proximity of these occurrences, as well as suitable refugia (for example, California ground squirrel burrows) on the Proposed Project site and two suitable breeding ponds near the Proposed Project site (within approximately 1,620 and 170 feet respectively), suggest that the CTS is considered to have a high potential to be present within the action area (Appendix A and BBC, 2010).

San Joaquin Kit Fox. The SJKF was once distributed over a large portion of central California, extending roughly from southeastern Contra Costa County south, along the eastern flanks of the Interior Coast Range, to the southern San Joaquin Valley on the valley floor and the adjacent low foothills, including major portions of western Kern and Tulare Counties. Currently, its range has been reduced to some regions of Alameda, Contra Costa, San Joaquin, Fresno, Kings, Madera, Merced, San Benito, Stanislaus, Tulare, Monterey, Kern, San Luis Obispo, Santa Barbara, and Ventura Counties. The species can be found in desert and steppe habitat covered with shrubs or grasses. The best habitat for the species is open saltbush scrub or arid grasslands (Cypher, 2006), found in the southern portion of the range. To the north, the available habitat is of lower quality, consisting primarily of more mesic grasslands.

Due to the human disturbance of its habitats, the SJKF can be found in annual grasslands and scrublands with active oil fields, wind turbines, and agricultural row crops. SJKF is nocturnal, so it spends most of the day in soft, sandy burrows and hunts in the twilight and nighttime hours. It feeds primarily on ground squirrels, kangaroo rats, desert cottontails, mice, insects, carrion, and ground-nesting birds (CDFG, 2005). Kangaroo rats, the preferred prey, are found in the southern and central portions of the species' range (Cypher, 2006). Burrows of other animals, particularly California ground squirrels, can be enlarged and utilized as den sites by SJKF, especially in the northern range (Orloff et al., 1986). Constructed structures, such as culverts and pipes, also may be used as dens in those areas with a shortage of dens.

The SJKF may range up to 20 miles at night (Girard, 2001) during the breeding season and somewhat less (6 miles) during the pup-rearing season. Home ranges vary from less than 1 square mile to approximately 12 square miles (Spiegel and Bradbury, 1992; White and Ralls, 1993).

Mortality for this species has been documented as caused by attacks by coyotes and golden eagles, road kills, conversion of habitat, shooting, drowning, entombment, pneumonia, and starvation. The use of rodenticides can result in secondary poisoning because the species is vulnerable through consumption of poisoned rodents.

There are several CNDDB records for the SJKF within 10 miles of the action area (CDFG, 2011). Eleven of these occurrences are within 3 miles or less of the Proposed Project site. The nearest of these records is from just north of the intersection of Bruns Road and Kelso Road (approximately 0.9 mile northwest of the Proposed Project site). The next nearest occurrence is just east of the intersection of Mountain House Road and the DMC (approximately 1.2 miles southeast of the Proposed Project site). The proximity of these occurrences, as well as their large home range, suggest that the SJKF is considered to have a high potential to be present within the Proposed Project area (Appendix A).

Non-federally Listed Species. The non-native grassland within the Proposed Project area may be used as foraging habitat by raptor species protected under the MBTA. These species include Swainson's hawk (*Buteo swainsoni*), northern harrier (*Circus cyaneus*), and white-tailed kite (*Elanus leucurus*). Occurrences of each of these species have been documented in the Proposed Project vicinity (Appendix A; BBC, 2010; CDFG, 2011). In addition, burrowing owl (*Athene cunicularia*), also a bird species protected under the MBTA, is known to occur in the Existing Setting (CDFG, 2011).

3.3.2 Environmental Impacts

3.3.2.1 Proposed Project Impacts

Federally Listed Species and Critical Habitat. The majority of special-status plants and animals are absent from within the boundaries of the Proposed Project areas, as described in Table 4. However, federally listed species and critical habitat that may be present in the vicinity of the Proposed Project area are the CRLF, CTS, SJKF, and CRLF Critical Habitat.

Direct effects could occur to these species, which are present within the pipeline construction corridor, the construction area associated with Pump Station 3, and the laydown and stockpiling area adjacent to and west of Pump Station 3. Individuals exposed on the surface or within burrows during excavation or grading activities could be killed or injured, or could fall into the trenches for the new turnout and pipeline and be killed (through desiccation, entombment, or predation) if those trenches are left open overnight. Such potential impacts would be avoided or minimized by implementing the environmental protection measures identified in Table 3.

The Proposed Project would increase vehicle traffic on the roadways that lead to the Proposed Project site (although traffic would likely increase only on Bruns Road, Kelso Road, and the unimproved road into the site). Consequently, an unknown number of wildlife, including special-status species, could experience roadway mortality during construction. Such potential impacts would be minimized by implementing the environmental protection measures identified in Table 3.

Construction activities would result in the temporary loss of up to 5.2 acres of non-native grassland habitat for wildlife. This loss of habitat is associated with the temporary 2.9-acre construction corridor for the new pipeline, the 2-acre laydown and stockpiling area adjacent to and west of Pump Station 3, and the 0.3 acre area associated with improvements to Pump Station 3. Stabilization of up to 0.5 acre of the access road may also prevent species from crossing to suitable upland habitat (Table 2). The temporary loss of habitat would reduce the number of suitable refugia for wildlife (including special-status species such as the CTS, CRLF, and SJKF) and potentially expose species to higher rates of predation or aggressive encounters with other predators. It would also reduce the number of prey species for special-status species. These impacts are not considered to be adverse given their temporary nature and would not substantially reduce the habitat of fish or wildlife species.

In addition, construction activities associated with improvements to Pump Station 3 would result in the permanent loss of up to 0.2 acre of non-native grassland habitat for wildlife (Table 2). The impacts associated with this loss of habitat are similar to those described above for the temporary loss of habitat (except that the impacts would be permanent) and compensatory habitat would be

provided in coordination and agreement with the USFWS and CDFG as specified above in Table 3, Environmental Mitigation Measures and Commitments.

The Proposed Project would not appreciably diminish the value of the designated critical habitat for the CRLF within which the Proposed Project is located. The effects of the Proposed Project would only temporarily affect upland habitat. This land is mostly important as unfragmented habitat for dispersal because the affected area is expected to be returned to existing conditions within the year following completion of the Proposed Project.

With the implementation of the environmental protective measures, including preconstruction surveys, construction monitoring, use of qualified biologists during surveys and monitoring, and mitigation to address impacts to habitat, the potential for the take of CRLF, CTS, and SJKF habitat would be minimized and no significant impacts would occur.

Non-federally Listed Species. BBID would implement the standard measures described above to protect raptors and other migratory bird species, such as the burrowing owl, Swainson's hawk, northern harrier, and white-tailed kite (Table 3).

At the SWP Skinner Delta Fish Protective Facility (Skinner Fish Facility), located 2 miles upstream of the Banks Pumping Plant, fish are diverted away from the pumps, held, and transported back to the Delta, where they are released in either the Sacramento River or the San Joaquin River at locations away from the influence of the pumps (DWR, 2011).

Water diverted at BBID's Pump Station 1-S for Tracy Hills is downstream of the screen at the Skinner Fish Facility, so no fishery-related impacts would occur as a result of the Proposed Project.

3.3.2.2 Cumulative Impacts

Impacts from the Proposed Project, in addition to other projects in the City and eastern Alameda County (USFWS, 2002), would not contribute substantially to additional habitat loss and fragmentation for special-status species.

The Proposed Project would temporarily disturb 5.2 acres of non-native grasslands during construction activities. This habitat would be returned to its pre-existing condition once construction is complete. In addition, stabilization of up to 0.5 acre of the access road may prevent species from crossing to suitable upland habitat. However, the Proposed Project would eliminate 0.2 acre of non-native grasslands that is considered core habitat for the SJKF and could be utilized by other special-status species. Subsequent to consultation with USFWS (Section 5.1), BBID would implement appropriate avoidance and minimization measures to address impacts to habitat as needed to minimize potential cumulative impacts.

The Proposed Project, when added to or combined with other water resource activities, would not contribute to significant impacts on biological resources.

3.4 Cultural Resources

Cultural resources include historic and prehistoric sites of interest and may include structures, archaeological sites, or religious sites of importance to American Indian cultures. Section 106 of

the NHPA, as amended (16 USC 40 et seq.), requires federal agencies to take into account the effects of their actions on properties listed or eligible for listing on the NRHP.

3.4.1 Cultural History

3.4.1.1 Prehistoric Period

The general trend throughout California prehistory has been an increase in population density over time, coupled with greater sedentism and the use of a greater diversity of food resources. Archaeologists believe that the population of the prehistoric San Francisco Bay Area slowly increased from the Early to the Late Horizon time periods (Moratto, 1984). The population increase is thought to reflect more-efficient resource procurement, increased ability to store food at village locations, and the development of increasing political complexity.

The Proposed Project area is within the territory associated with the ethnographic and historic boundaries of the *Julpun* tribelet of the Bay Miwok and the *Jalalon*, *Nochochomne*, and *Asirin* tribelets of the Northern Valley Yokuts. Maps of ethnographic and historical tribal boundaries are provided by Bennyhoff (1977), Kroeber (1925), Schenck (1926), Levy (1978a and b), and Wallace (1978).

3.4.1.2 Historic Setting

In 1542, Juan Rodriguez Cabrillo explored the California coast by ship. Much of the early exploration of California was conducted this way, and the interior of California, including the San Joaquin Valley, remained unexplored by Europeans until the beginning of the Spanish Period. The Spanish Period spans from 1769 to 1822 in California, beginning with the founding of the first mission, the Mission San Diego de Alcala in 1769. It was not until March 1772 that the first formal European expedition, led by Pedro Fages, entered the northern San Joaquin Valley. In 1821, Mexico gained independence from Spain, and in 1848, the United States formally obtained California in the Treaty of Guadalupe Hidalgo (Cleland, 1941). The period from 1821 to 1848 is referred to as the Mexican Rancho Period. During this period, large tracts of land termed *ranchos* were granted by the Mexican governors of *Alta* California, usually to individuals who had worked in the service of the Mexican government. The closest *rancho* to the Proposed Project area is the *Rancho el Pescadero,* just east of the Proposed Project area.

3.4.1.3 Evaluation Process

Evaluating impacts on cultural resources begins with the identification and evaluation of cultural resources for NRHP eligibility, followed by an assessment of effect on the eligible resources. The evaluation concludes after a consultation process among the SHPO, the lead federal agency, American Indian Tribes (Tribes), and other interested parties. If an action (undertaking) could change, in any way, the characteristics that qualify the resource for inclusion on the NRHP, it is considered to have an effect.

The protection of historic properties is governed by several federal laws and regulations, including the NHPA (1966), the Archaeological and Historic Preservation Act (1974), the American Indian Religious Freedom Act (1978), the Archaeological Resources Protection Act (1979), and the Native American Graves Protection and Repatriation Act (1990). Under Section 110 of the NHPA, federal agencies are required to locate and inventory all resources under their purview that are recommended as eligible for inclusion in the NRHP on federally owned, leased, or managed property. In accordance with Executive Order 12372,

Intergovernmental Review of Federal Programs, determinations regarding the potential effects of an undertaking on historic properties are presented to the SHPO, federally recognized Tribes, and other interested parties.

Adverse effects on historic properties can include physically altering, damaging, or destroying all or part of a resource; altering characteristics of the surrounding environment that contribute to the resource's significance; introducing visual or audible elements that are out of character with the property or that alter its setting; neglecting the resource to the extent that it deteriorates or is destroyed; or the sale, transfer, or lease of the property out of federal agency ownership (or control) without adequate legally enforceable restrictions or conditions to ensure preservation of the property's historic significance.

3.4.2 Existing Setting

3.4.2.1 Area of Potential Effects

The area of potential effects (APE) for the Proposed Project comprises approximately 5.9 acres and includes an access road and buffer, a laydown area, a short segment of Canal 70, Pump Station 3, a construction buffer around Pump Station 3, and the construction corridor for the new 0.4-mile, 30-inch pipeline that would connect Pump Station 3 to the DMC (Table 2). The area of disturbance at the pump station covers approximately 0.5 acre. The laydown and stockpile area covers approximately 2 additional acres, adjacent to and west of Pump Station 3. The laydown area also would be used to temporarily store contractor equipment, spoils, and other materials. The construction corridor for the new pipeline is 60 feet wide and 0.4 mile long, totaling 2.9 acres. The area of disturbance for the access road would be approximately 700 feet long by 30 feet wide, totaling approximately 0.5 acre. This corridor includes the pipe trench, storage for construction equipment, pipe laydown, and access.

The vertical extent of excavations would average approximately 7 feet. Depths may extend up to 10 feet below the surface where the existing grade has high spots. The pipe trench would be a maximum of 5 feet wide, where the soils allow vertical excavation and where shoring can be employed. In some instances, the trench may be sloped back to alleviate unstable soils and provide safer conditions for workers in the trench. Trenches excavated in this manner would still be 5 feet wide in the lower 4 to 5 feet of the trench, but the upper portion would be laid back in a "V" shape, with a top maximum width of 12 feet at the ground surface (see Figure 2).

3.4.2.2 Literature Search

A literature search was requested from the California Historical Resources Information System Northwestern Information Center on September 2, 2010, at Sonoma State University. A 0.5-mile buffer zone around the APE was included in this search.

The literature search revealed that 15 studies were conducted within the 0.5-mile buffer. Five of these studies were conducted within the APE. No previously recorded resources were identified within the APE. Six resources were identified in the 0.5-mile buffer area, including the Tracy Pumping Station, Canal 70, and the Tracy Substation. Review of historical maps showed the following historic features within the APE: the DMC, Canal 70, Canal 120, and Canal 155. The DMC is recorded elsewhere in Alameda County as Site P-01-10435 and in neighboring San Joaquin County as Site P-39-89. A segment of Canal 70, which is just north of the APE, is

recorded as Site P-01-10445. No information was provided on the site record for Site P-01-10445.

3.4.2.3 Pedestrian Survey

A systematic pedestrian cultural resource survey of the APE was conducted from September 13 through September 16, 2010, by CH2M HILL archaeologist Dan Ewers. Observed sediment is typical of agricultural fields in the area and consists of dark, fine-grained alluvial deposition. Surface visibility for the APE varied from excellent (100 percent) to fair (40 percent), depending on the amount of surface vegetation. Disturbances within the APE include road compaction and typical agricultural activities, including discing and earthmoving activities. Other disturbances are related to irrigation, such as grading for canals and ditches, as well as constructing small raised areas to control irrigation waters.

The DMC, Canal 70, Canal 120, and Canal 155 were visited during the survey. Canals 120 and 155 were recorded on Department of Parks and Recreation forms. Canals 70, 120, and 155 are part of the historic BBID system and visible on the 1947 *Byron, California* 15-foot War Department topographic quadrangle map. The DMC is part of the historic CVP. According to BBID, Pump Station 3 was originally constructed in 1966 and, therefore, does not qualify for evaluation as a historic property (Gilmore, 2010). No other cultural resources were identified.

3.4.2.4 Native American Consultation

Proposed Project consultants contacted the NAHC to determine if any sacred sites were previously identified within the APE and to acquire a list of interested Indian groups. The sacred lands file search did not find any previously known Native American cultural resources within the APE. The list was submitted to Reclamation, who subsequently submitted letters of inquiry to Tribes to find out if sites of religious significance are within the APE, in compliance with 36 CFR Part 800.4. Reclamation also submitted letters to Native American individuals, as interested members of the public, to find out if they have knowledge of cultural resources within the APE, pursuant to 36 CFR Part 800.4(a)(3).

3.4.3 Environmental Impacts

3.4.3.1 Proposed Project Impacts

As described in Section 3.4.1.3, the Proposed Project would initiate Section 106 of the NHPA. The cultural resources assessment documents four historic canals within the APE. Three features (Site P-01-10445, Canal 120, and Canal 155) were determined not eligible for listing on the NRHP and, therefore, are not considered historic properties as defined under Section 106. The last feature, the DMC, was determined eligible for listing on the NRHP in 2001 (Baker, 2001) and is considered a historic property under Section 106.

The proposed pipeline connecting Pump Station 3 with the DMC would be almost entirely underground. The pipeline would extend to the DMC and transition from belowground to aboveground to discharge near the headwall of the DMC, approximately 3 feet above its high-water mark. The discharge pipe would not require physical modification to the DMC, and the visual setting to the DMC would not change. The DMC is currently in use and has been maintained into the modern era. Many modern appurtenances, upgrades, and other modifications are found along its 117-mile length, as well as at the location of the proposed discharge pipe. Therefore, the DMC would not be adversely affected.

As a result of the cultural resource assessment and in accordance with 36 CFR Part 800.4(d)(1), a determination of No Adverse Effect is recommended for this Proposed Project.

If cultural resources or materials are discovered during ground-disturbing activities, the work in the vicinity of the discovery would cease and the area would be protected until the find is evaluated by a qualified archaeologist. Reclamation's archaeologist would be notified immediately. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance can occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner would be notified of the find immediately. If the remains are determined to be Native American, the County Coroner would notify the NAHC, which would identify and notify an MLD. The MLD may inspect the site of the discovery with the permission of the landowner, or his or her authorized representative. The MLD would complete the inspection within 48 hours of its notification by the NAHC. The MLD may recommend scientific removal and analysis of human remains and items associated with Native American burials.

Given that these environmental commitments are included as part of the Proposed Project, no adverse impacts on cultural resources would be expected.

3.4.3.2 Cumulative Impacts

The Proposed Project would only cause a cumulative adverse effect in this case if, combined with other projects, it would cause, or significantly contribute to causing, the DMC to lose its significance through the collective weight of individual project effects. However, the DMC remains in use and has been maintained into the modern era without affecting the canal's eligibility for the NRHP.

Thus, the Proposed Project would not likely combine cumulatively with other past, present, and reasonably foreseeable future projects in an adverse way.

Impacts on known significant archaeological sites or subsurface archaeological resources from the Proposed Project and other projects in the vicinity could occur during construction excavations. However, Proposed Project proponents for this and future projects in the area could mitigate impacts on both known significant and as yet undiscovered subsurface archaeological sites by implementing mitigation measures. If the Proposed Project encounters a large, stratified, buried prehistoric archaeological site or discrete filled-in historic period features, the possibility of cumulative impacts would arise because such sites might be highly significant; and, in the past, others have been destroyed or damaged by agricultural activity or commercial/industrial/ residential development in the Proposed Project vicinity.

Given the relatively low level of impact on such a site that the Proposed Project would cause, it is possible, but not likely, that the Proposed Project would lead to significant cumulative impacts. The potential impact would depend on the extent of discovered archaeological deposits.

The Proposed Project's contribution to this cumulative impact is considered adverse, but not significant. Any potential impact on a known significant cultural resource would be mitigated to a level of insignificance, and any potential impact on an unknown site would be minimized by a stop-work procedure if a site is uncovered, allowing time for proper survey and mitigation of the site.

3.5 Air Quality

Section 176 (C) of the Clean Air Act (CAA) (42 USC 7506 [C]) requires any entity of the federal government that engages in, supports, or in any way provides financial support for, licenses or permits, or approves any activity to demonstrate that the action, conforms to the applicable State Implementation Plan (SIP) required under Section 110 (a) of the federal CAA (42 USC 7401 [a]) before the action is otherwise approved. In this context, conformity means that such federal actions must be consistent with SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of those standards. Each federal agency must determine whether any action it proposes that is subject to the regulations implementing the conformity requirements would, in fact, conform to the applicable SIP before the action is taken.

The State of California has also adopted ambient air quality standards (CAAQS), which generally are more stringent than the NAAQS. If ambient concentrations of any of the criteria pollutants in an area exceed the state or federal standards established for those pollutants, the area is designated a "nonattainment" area. For some pollutants, an area can be designated a basic, moderate, serious, severe, or extreme nonattainment area, depending on the level of pollutant concentrations. Likewise, if standards for pollutants are met in a particular area, the area is designated an "attainment" area. Where standards might not have been established, or monitoring data do not exist for certain criteria pollutants, the designation is "unclassified." Table 5 lists the NAAQS and CAAQS.

Table 5
Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards[a]	National Standards[b]	
			Primary[c]	Secondary[d]
O_3	1 hour	0.09 ppm	---	Same as Primary
	8 hour	0.070 ppm	0.075 ppm	
PM_{10}	24 hour	50 μg/m^3	150 μg/m^3	Same as Primary
	Annual Arithmetic Mean	20 μg/m^3	---	
$PM_{2.5}$	24 hour	---	35 μg/m^3	Same as Primary
	Annual Arithmetic Mean	12 μg/m^3	15.0 μg/m^3	
CO	8 hour	9.0 ppm	9 ppm	None
	1 hour	20 ppm	35 ppm	
NO_2	Annual Arithmetic Mean	0.030 ppm	100 μg/m^3	Same as Primary
	1 hour	0.18 ppm (339 μg/m^3)	0.100 ppm (188 μg/m^3)	None

Table 5
Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards[a]	National Standards[b]	
			Primary[c]	Secondary[d]
SO_2	24 hour	0.04 ppm	---	---
	1 hour	0.25 ppm (655 μg/m^3)	0.075 ppm (196 μg/m^3)	---
Lead	30 day average	1.5 μg/m^3	---	---
	Calendar Quarter	---	1.5 μg/m^3	Same as Primary
	Rolling 3-month average	---	0.15 μg/m^3	
Visibility-reducing Particles	8 hour	See note[e]	---	---
Sulfates	24 hour	25 μg/m^3	---	---
Hydrogen Sulfide	1 hour	0.03 ppm	---	---
Vinyl Chloride	24 hour	0.01 ppm	---	---

[a]California standards for ozone, CO, SO_2 (1-hour and 24-hour), NO_2, and suspended particulate matter (PM_{10}, $PM_{2.5}$, and visibility-reducing particles) are values that are not to be exceeded. All others are not to be equaled or exceeded.

[b]National standards, other than ozone, particulate matter, and those based on annual averages or annual arithmetic means, are not to be exceeded more than once per year. The ozone standard is attained when the fourth highest 8-hour concentration in a year, averaged over 3 years, is equal to or less than the standard. For PM_{10}, the 24-hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 μg/m^3 is equal to or less than one. For $PM_{2.5}$, the 24-hour standard is attained when 98 percent of the daily concentrations, averaged over 3 years, are equal to or less than the standard.

[c]National Primary Standards: The levels of air quality necessary, with an adequate margin of safety, to protect the public health.

[d]National Secondary Standards: The levels of air quality necessary to protect the public welfare from any known or anticipated adverse impacts of a pollutant.

[e]In sufficient amounts to produce an extinction coefficient of 0.23 per kilometer due to particles, when the relative humidity is less than 70 percent.

Table 5
Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards[a]	National Standards[b]	
			Primary[c]	Secondary[d]

Notes:

CO = carbon monoxide
SO_2 = sulfur dioxide
NO_2 = nitrogen dioxide
O_3 = ozone
ppm = parts per million (by volume)
$PM_{2.5}$ = particulate matter 2.5 microns or less in diameter
PM_{10} = particulate matter 10 microns or less in diameter
$\mu g/m^3$ = microgram(s) per cubic meter
--- = no established standard

On November 30, 1993, the U.S. Environmental Protection Agency (EPA) promulgated final general conformity regulations at 40 CFR 93 Subpart B for all federal activities except those covered under transportation conformity. The general conformity regulations apply to a proposed federal action in a non-attainment or maintenance area if the total of direct and indirect emissions of the relevant criteria pollutants and precursor pollutant caused by the Proposed Project equal or exceed certain de minimis amounts, thus requiring the federal agency to make a determination of general conformity.

3.5.1 Existing Setting

The Proposed Project is in eastern Alameda County, a few miles from the border with San Joaquin County. Alameda County is part of the San Francisco Bay Area Air Basin, which consists of all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara Counties, and the southern portions of Solano and Sonoma Counties. The basin is under the jurisdiction of the BAAQMD. NAAQS and CAAQS have been established for the following criteria pollutants: CO, O_3, SO_2, NO_2, inhalable particulate matter (PM_{10} and $PM_{2.5}$), and lead. The CAAQS also set standards for sulfates, hydrogen sulfide, and visibility.

The BAAQMD is designated as nonattainment for the federal O_3 and $PM_{2.5}$ standards and nonattainment for the state O_3, PM_{10}, and $PM_{2.5}$ standards (EPA, 2010a; BAAQMD, 2011).

3.5.2 Environmental impacts

3.5.2.1 Proposed Project Impacts

Proposed Project construction activities, such as excavation, grading, and vehicle travel, would cause an increase in PM_{10} and $PM_{2.5}$ due to dust and exhaust emissions. Exhaust emissions of nitrogen oxides (NO_x) and reactive organic gases (ROG) from construction can contribute to O_3 formation. Emissions of CO and SO_2 were also calculated for construction activities. Construction exhaust emissions and fugitive dust emissions for the Proposed Project were estimated using URBEMIS Version 9.2.4 (see Appendix B). The annual construction emissions and comparison to the general conformity de minimis thresholds are presented in Table 6.

The annual emissions would be less than the de minimis thresholds; therefore, the Proposed Project does not require a conformity determination. Additionally, control measures have been incorporated into the Proposed Project that would minimize emissions from construction activities (Table 3), so construction would not create an adverse impact on air quality.

Table 6
Construction Emissions Comparison to General Conformity De Minimis Thresholds

	Emissions (tons/year)					
Emission Source	**ROG**	**NO_x**	**CO**	**SO_2**	**PM_{10}**	**$PM_{2.5}$**
Construction	0.2	1.3	0.7	0.00015	0.10	0.067
De Minimis Threshold	10	10	NA	NA	15	10

Note:
NA = Threshold has not been established

In accordance with BAAQMD CEQA guidelines, construction emissions from the Proposed Project are compared to the BAAQMD daily average significance thresholds in Table 7.

Table 7
Construction Emissions Comparison to BAAQMD Daily Significance Thresholds

	Emissions (lb/day)					
Emission Source	**ROG**	**NO_x**	**CO**	**SO_2**	**PM_{10}**	**$PM_{2.5}$**
Construction	3.8	32.4	15.9	0.0028	4.3	1.7
De Minimis Threshold	54	54	NA	NA	82[a]	54

[a] Applies to exhaust emissions only
Note:
NA = Threshold has not been established

The daily average emissions would be less that the significance thresholds, and would be, therefore, less than significant.

3.5.2.2 Cumulative Impacts

The Proposed Project would generate short-term emissions during the construction phase; however, the Proposed Project would not result in a cumulatively considerable increase in emissions affecting air quality.

Therefore, there would be no cumulative impacts.

3.6 Global Climate Change

Climate change refers to significant change in measures of climate (e.g., temperature, precipitation, or wind) lasting for decades or longer. Many environmental changes can contribute to climate change, such as changes in the sun's intensity, changes in ocean circulation, deforestation, urbanization, or fossil fuel burning (EPA, 2010b).

Gases that trap heat in the atmosphere are often called greenhouse gases (GHGs). Some GHGs, such as carbon dioxide (CO_2), occur naturally and are emitted to the atmosphere through natural processes and human activities. Other GHGs, such as fluorinated gases, are created and emitted solely through human activities. The principal GHGs that enter the atmosphere because of human activities are CO_2, methane, NO_x, and fluorinated gases (EPA, 2008).

During the past century, humans have substantially added to the amount of GHGs in the atmosphere by burning fossil fuels, such as coal, natural gas, oil and gasoline, to power our cars, factories, utilities and appliances. The added gases, primarily CO_2 and methane, are enhancing the natural greenhouse effect, and likely contributing to an increase in global average temperature and related climate changes. At present, there are uncertainties associated with the science of climate change (EPA, 2010c).

3.6.1 Existing Setting

More than 20 million Californians rely on the SWP and CVP for their water supply. Increases in air temperature may lead to changes in precipitation patterns, runoff timing and volume, sea level rises, and changes in the amount of irrigation water needed because of modified evapotranspiration rates. These changes may lead to impacts on California's water resources and water project operations.

Although there is general consensus about their trend, the magnitudes and onset-timing of impacts on California's water resources and water project operations are uncertain and are scenario-dependent (Anderson et al., 2008).

3.6.2 Environmental Impacts

3.6.2.1 Proposed Project Impacts

Climate change is by definition global in scope. Construction and operation of the Proposed Project would generate GHG emissions. Construction activities would include use of heavy equipment and construction vehicles. Construction would result in a minor, short-term increase in GHG emissions (total of approximately 139 metric tons of CO_2 or 147 metric tons of CO_{2e}). Operation of the Proposed Project would require the use of existing electrically operated pumps. Actual annual emissions would vary based on capacity in the DMC, but have been estimated for the 8-month pumping schedule using the EPA's GHG Equivalencies Calculator (EPA, 2012) as approximately 752 metric tons per year of CO_{2e}. Both construction and annual operational emissions are negligible compared to the EPA's 25,000 metric tons per year threshold for annually reporting GHG Emissions (EPA, 2009).

Accordingly, the Proposed Project would result in fewer than de minimis impacts on global climate change.

3.6.2.2 Cumulative Impacts

The Proposed Project would not result in cumulatively considerable effects on global climate change.

3.7 Traffic

3.7.1 Existing Setting

Regional vehicular access within the Proposed Project area is provided by Interstates (I-) 205, 580, and 5. I-205 extends eastward between I-580 and I-5, through the northern portion of the City of Tracy. I-580 is the connector route between I-5 south of Tracy and the Bay Area. I-5 is the major thoroughfare extending north and south through California.

Access to the Proposed Project site would be from Kelso Road, which is a county-maintained road within a portion of San Joaquin and Alameda counties. The main access to Kelso Road is via Bruns Road from Byron Highway. The current level of service (LOS) on these county roadways is classified as "A" (Lee, 2011, personal communication).

Access to the construction site would be via the existing gravel access road that turns south from Kelso Road. Approximately 250 yards of the existing access road directly north of Pump Station 3 would be stabilized with 30-foot-wide by 4-inch-thick aggregate base to allow for construction traffic (see Project Description in Section 1). The pipeline corridor would be accessed within the 60-foot-wide temporary work space required to install the pipeline.

3.7.2 Environmental Impacts

3.7.2.1 Proposed Project Impacts

Construction activities associated with the Proposed Project would not adversely affect existing traffic patterns. Local traffic on Byron Highway, Bruns Road, and Kelso Road would slightly increase during construction resulting from construction workers entering and exiting the site, and general construction traffic, such as dump trucks hauling material to and from the site (potentially 50 trucks over 60 days, less than 1 truck a day on average). However, the increased levels of traffic would be minimal and would not affect current LOS to local roadways.

Operational activities associated with the Proposed Project would not affect traffic patterns.

3.7.2.2 Cumulative Impacts

The Proposed Project would not result in changes to traffic; therefore, there would not be cumulative effects.

Section 4 CEQA Environmental Factors and Mandatory Findings of Significance

This section includes the CEQA analysis portion of potentially affected issues that may result from implementation of the Proposed Project. The use of "significant" or "significance" within this section is specific to CEQA and does not pertain to the use of "significant" under NEPA. Refer also to the CEQA Environmental Checklist Form that follows.

As identified in Section 2.3, Environmental Mitigation Measures, mitigation measures have been incorporated in the Proposed Project. The following discussion assumes all the environmental mitigation measures listed in Table 3 would be implemented.

A more detailed analysis of impacts by issue/resource area is presented in Section 3, Existing Setting and Environmental Impacts.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this Proposed Project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology/Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials	☐ Hydrology/Water Quality
☐ Land Use/Planning	☐ Mineral Resources	☐ Noise
☐ Population/Housing	☐ Public Services	☐ Recreation
☐ Transportation/Traffic	☐ Utilities/Service Systems	☐ Mandatory Findings of Significance

DETERMINATION:

On the basis of this initial evaluation:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been

adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT (EIR) is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature _____ Date _____

Signature _____ Date _____

Aesthetics

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. Aesthetics Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

Discussion

No lights or source of glare is proposed. The Proposed Project would not affect a scenic vista or damage a scenic resource within a state scenic highway. Therefore, there would be no impact.

Construction activities could potentially degrade the existing visual character quality of the site. However, because these impacts would be temporary, they would be less than significant.

Agricultural and Forestry Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
II. Agricultural and Forestry Resources In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997), prepared by the California Dept. of Conservation, as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒

Agricultural and Forestry Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

Discussion

The Proposed Project area is not defined as Prime or Unique Farmland, nor as Farmland of Statewide Importance. Although the Proposed Project parcels are bound in Williamson Act contracts, the proposed use of the parcels would not conflict with the existing zoning or the Williamson Act contract. The Proposed Project would not conflict with zoning for forest land, timberland, or timberland zoned for timberland production and would not result in the loss of or conversion of forest land, nor convert farmland to non-agricultural use. Therefore, there would be no impact.

Air Quality and Climate Change

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
III. Air Quality and Climate Change Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☒	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒

Discussion

Proposed Project activities would neither expose sensitive receptors to substantial pollutant concentrations nor create objectionable odors. Therefore, there would be no impact.

Anticipated construction-related impacts would not exceed established thresholds, and impacts would be less than significant.

Additionally, implementation of environmental protection measures listed in Table 3 would minimize PM_{10} construction emissions and further lessen impacts. Therefore, potential impacts would be less than significant.

Biological Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. Biological Resources Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☒	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒

Biological Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Discussion

The Proposed Project would have no effect on riparian habitat or other sensitive natural communities, or federally protected wetlands as defined by Section 404 of the CWA, nor would it conflict with local policies or ordinances protecting biological resources or an adopted habitat conservation plan. Therefore, there would be no impact.

Wildlife and floristic species could be affected within the pipeline construction corridor, construction area associated with Pump Station 3, and laydown and stockpiling area adjacent to Pump Station 3 (see Section 3.3). The following special-status wildlife could be affected: CTS, CRLF, burrowing owl, SJKF, and American badger (i.e., species that routinely use burrows). Individuals exposed on the surface during excavation or grading could be killed or injured by construction activities. However, these potential impacts would be minimized by implementing the environmental protection measures listed in Table 3. Therefore, the impacts would be less than significant.

Vehicle traffic would likely increase on Bruns Road, Kelso Road, and the unimproved road into the site (see Section 3.3). Consequently, an unknown number of wildlife including special-status species could experience roadway mortality during construction. Such impacts would be minimized by implementing the environmental protection measures identified in Table 3. Therefore, the impacts would be less than significant.

The above-described impacts could also disrupt the normal movement or dispersal of special-status wildlife species such as the Western pond turtle, CTS and CRLF. Trenching associated with the Proposed Project could preclude the movement of individuals during dispersal away from aquatic breeding sites. However, these potential impacts would be minimized by implementing the environmental protection measures identified in Table 3. In addition, the impacts would be temporary. Therefore, the impacts would be less than significant.

Construction activities would result in the temporary loss of up to 5.2 acres of non-native grassland habitat for wildlife. This loss of habitat is associated with the temporary 2.9-acre construction corridor for the new pipeline, the 2-acre laydown and stockpiling area adjacent to and west of Pump Station 3, and the 0.3 acre area associated with improvements to Pump Station 3. Stabilization of up to 0.5 acre of the access road may also prevent species from crossing to suitable upland habitat (see Section 3.3 and Table 2). The temporary loss of habitat would reduce the number of suitable refugia for wildlife (including special-status species such as the CTS, CRLF, burrowing owl, SJKF, and American badger) and potentially expose individuals to

Biological Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
higher rates of predation or aggressive encounters with other predators. It would also reduce the number of prey species for special-status species such as the SJKF, American badger, Swainson's hawk, northern harrier, and white-tailed kite. However, these potential impacts would be minimized by implementing the environmental protection measures identified in Table 3. Therefore, these impacts would be less than significant. In addition, construction activities associated with improvements to Pump Station 3 would result in the permanent loss of up to 0.2 acre of non-native grassland habitat for wildlife. The impacts associated with this loss of habitat are similar to those described above for the temporary loss of habitat (with the exception that the impact would be permanent) and compensatory habitat would be provided in coordination with and in agreement with the USFWS and CDFG as specified above in Table 3, Environmental Mitigation Measures and Commitments. Construction of the Proposed Project could result in the loss of existing vegetation within the pipeline construction corridor, construction area associated with Pump Station 3, and laydown and stockpiling area adjacent to Pump Station 3 (see Section 3.3). This vegetation could include individuals of special-status plant species such as heartscale, brittlescale, and San Joaquin spearscale (annual upland species). However, impacts on special-status plant species would be minimized by implementing the environmental protection measures identified in Table 3. Therefore, potential impacts would be less than significant. (See Appendix C for a comprehensive list of special-status species potentially occurring in the BBID Tracy Hills Supply Project Area).				

Cultural Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. Cultural Resources Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☐	☒	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☐	☒

Cultural Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☒	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☒	☐

Discussion

The literature search, sacred lands file search, and pedestrian survey did not identify archaeological resources within the Proposed Project area or areas known to contain human remains. Therefore, there would be no impact.

Although the Proposed Project would connect to the DMC, this work would not result in an adverse effect to a historic property. The new 30-inch pipeline would connect to the DMC headwall and release water into the canal from an exposed elbow of metal pipe approximately 3 feet above the high water level. This new pipeline would not be the only modern feature at this location of the DMC; several large pipes, other similar discharge pipes, modern chain-link fencing, and modern access stairs are all present at this segment of the DMC. The proposed work is of a minor scale along a 117-mile-long feature and would aid in the movement and management of water to industry and residences, which is the original, historical mission of the DMC. Additionally, because the DMC is currently in use and has been maintained into the modern era, other modifications of the type described above can be found along its 117-mile length.

Paleontological resources have been documented in Quaternary, Tertiary, and Cretaceous sediments near the Proposed Project area, and paleontological resources were encountered during construction of the nearby Delta Pumping Plant and segments of regional aqueduct systems (California Energy Commission, 2010).

Potential impacts on cultural and paleontological resources would be minimized by implementing the environmental protection measures identified in Table 3. Therefore, potential impacts would be less than significant.

Geology and Soils

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. Geology and Soils Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☒	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☒	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☒	☐

Geology and Soils

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

Discussion

Based on a review of the available Alquist-Priolo fault zone maps, the Proposed Project would not cross any known active fault zones. The closest Alquist-Priolo fault zones to the site would be the Greenville Fault, approximately 9 miles to the west. The potential that the Proposed Project would be directly subject to fault offsets as a result of the distance from the Proposed Project to the fault zones is negligible. Therefore, there would be no impact.

No septic tanks or wastewater systems would be constructed as part of the Proposed Project. Therefore, there would be no impact.

The site could be subjected to strong ground shaking from a large earthquake. Shaking from an earthquake can result in structural damage and can trigger other geologic hazards, such as liquefaction. USGS faults active during the last 15,000 years and blind thrust faults characterized during the Delta Risk Management Study [DWR, 2007]) within 62 miles of the site are shown on Figure 6. There are no mapped landslides at the Proposed Project location (USGS, 1997a); however, there is a potential for landslides in the Proposed Project area; elevation changes from 100 to 200 feet over a distance of 2,000 feet, resulting in a 5 percent sloping topography along the pipeline alignment. Figure 7 shows the geology along the Proposed Project alignment. The pipeline would be along the Oro Loma Formation, which is described as reddish silt, sand, and gravel. Portions of the Proposed Project, including the proposed stabilized access road, are on undifferentiated quaternary deposits. U.S. Department of Agriculture surface soil data (2011) indicate the presence of lean clay on top of the bedrock. The presence of clay indicates that there may be potential for expansion. Saturated clay may pose difficulties for construction. Silt, sand, and gravel deposits of the Oro Loma Formation may be susceptible to liquefaction. With implementation of environmental protection measures listed in Table 3, potential impacts would be less than significant**.**

Construction of the Proposed Project would require areas to be cleared and graded. Additionally, a trench would be excavated in preparation for placement of the new pipeline. During construction, erosion may occur in areas that have been disturbed, especially during the rainy season. Implementation of an SWPPP, as identified in Table 3, would minimize erosion and reduce this impact to less than significant.

Greenhouse Gas Emissions

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VII. Greenhouse Gas Emissions Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, which may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Discussion

Operation of the Proposed Project would require the use of existing electrically operated pumps. Proposed Project pumping would be determined by Reclamation based on available capacity in the DMC. Calculated annual CO_{2e} emissions resulting from Proposed Project pumping were estimated at 926 metric tons and would be well below EPA's threshold for annually reporting GHG emissions (25,000 metric tons/year).

Construction activities would include activities that emit GHGs, such as the use of heavy equipment and associated construction vehicles. Construction would result in a minor, short-term increase in GHG emissions (total of approximately 139 metric tons of CO_2), which is not considered significant.

Hazards and Hazardous Materials

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. Hazards and Hazardous Materials Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒

Hazards and Hazardous Materials

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒

Hazards and Hazardous Materials

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☒	☐

Discussion

Operation of the bypass pipeline would not require the routine transport, use, or disposal of hazardous materials. No known existing or proposed schools are within 0.25 mile of the Proposed Project site. The nearest school is Mountain House Elementary School, approximately 0.75 mile east of the construction site. The Proposed Project would not occur on a hazardous materials site listed pursuant to California Code Section 65962.5, nor is it located within an airport land use plan or near a private airstrip. The Proposed Project would not impair implementation or physically interfere with an adopted emergency response plan or emergency evacuation plan. Therefore, there would be no impact.

If hazardous materials are used during construction, they would be of a small quantity and would be stored onsite temporarily. Implementation of an SWPPP, as listed in Table 3, would reduce potential hazardous materials impacts to less than significant.

Vegetated areas are within the Proposed Project construction site. While construction is not expected to increase the potential for wildfires, use of equipment and materials in and around the Proposed Project site could ignite dry brush. No residential areas are within the Proposed Project site, but there are residential areas about 0.35 mile north of the site along Kelso Road. Within the Proposed Project site, there are buildings associated with Pump Station 3. If equipment ignites dry vegetation in the area, these buildings and nearby residential areas could be at risk. Implementation of mitigation measures listed in Table 3 would reduce potential impacts to less than significant.

Hydrology and Water Quality

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. Hydrology and Water Quality Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☒	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on or off site?	☐	☐	☒	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site?	☐	☐	☒	☐
e) Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐
f) Otherwise substantially degrade water quality?	☐	☐	☒	☐

Hydrology and Water Quality

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

Discussion

The Proposed Project would not deplete groundwater supplies or interfere with groundwater recharge. No housing or structures would be placed within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map, nor would Proposed Project activities expose people or structures to additional risk involving flooding or inundation by seiche, tsunami, or mudflow. Therefore, there would be no impact.

Surface water quality could be affected by construction activities. Implementation of the environmental protection measures listed in Table 3 would reduce potential impacts to less than significant.

Any alteration to the existing drainage pattern of the site would be limited to the construction period and thus would be temporary. At completion of construction, there would be an increase in hardscape of 0.2 acre, which would have a less-than-significant impact on stormwater runoff and the capacity of existing or planned stormwater drainage systems. Therefore, impacts would be less than significant.

Land Use and Planning

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
X. Land Use and Planning Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the General Plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Discussion

The Proposed Project would not divide an established community. The Proposed Project would not conflict with any land use plan, policy, or regulation adopted for avoiding or mitigating an environmental effect, or with any habitat or community conservation plan. Therefore, there would be no impact.

Mineral Resources

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. Mineral Resources Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒
Discussion There would be no loss of availability of mineral resources of value or loss of availability of a locally important mineral resource recovery site. Therefore, there would be no impact.				

Noise

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. Noise Would the project:				
a) Cause exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b) Cause exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐

Noise

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Create a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d) Create a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Discussion

The Proposed Project is not within an airport land use plan area or within 2 miles of a public airport. The nearest private airstrip is approximately 3 miles from the Proposed Project site. There would be no increase in ambient noise levels upon completion of the Proposed Project. Therefore, there would be no impact.

During construction, noise levels would increase temporarily in the vicinity. The most noticeable construction noise would likely be related to vehicle backup warning devices and general construction noise. A limited number of sensitive receptors are in the Proposed Project area. The nearest home is more than 0.25 mile from the Proposed Project. Considering the distance of the nearest sensitive receptor and that increases in noise levels would be temporary, impacts would be less than significant.

Population and Housing

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. Population and Housing Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Discussion

The construction of the Proposed Project would not involve the addition of new housing or displace housing/people. This IS does not include an assessment of impacts associated with the development of Tracy Hills because those impacts were previously addressed in the Tracy Hills Specific Plan EIR (City, 1997) certified by the City on January 1, 1998. Please see the Environmental Factors and Impacts Section (Section 2) of the Tracy Hills Specific Plan and the Land Use Element Section (Section 2) of the City of Tracy's General Plan (City, 2006). Therefore, there would be no impact as a result of the Proposed Project.

Public Services

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIV. Public Services				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	☐	☐	☐	☒
Fire protection?	☐	☐	☐	☒
Police protection?	☐	☐	☐	☒
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☐	☒
Other public facilities?	☐	☐	☐	☒

Discussion

Emergency services in the Proposed Project area are provided by the City fire and police departments. The closest fire station is South County Fire Authority Station #98, located at 911 Tradition Street, in the Mountain House community approximately 3 miles southeast of the Proposed Project site; the closest police station is approximately 9 miles southeast at 1000 Civic Center Drive in the City. No recreational facilities are onsite or immediately adjacent (less than 3 miles) to the Proposed Project site. The closest school or public facility, Mountain House Elementary School, is approximately 0.75 mile east of the Proposed Project site at 3950 Mountain House Road in Byron. The Proposed Project would not increase the demand for public services within the nearby area. The need for schools or parks would not increase, and the demand for police and fire services could be met by existing capacity. Therefore, there would be no impact.

Recreation

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. Recreation Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒
Discussion The Proposed Project would not increase the use of regional parks, nor would it include or require recreational facilities. Therefore, there would be no impact.				

Transportation and Traffic

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVI. Transportation and Traffic Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and	☐	☐	☒	☐

Transportation and Traffic

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
freeways, pedestrian and bicycle paths, and mass transit?				
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒

Discussion

The Proposed Project would not conflict with an applicable congestion management program or locally adopted transportation plan, or affect air traffic patterns. The Proposed Project has no hazardous design feature and would not affect emergency access. Traffic patterns upon completion of construction activities would not differ substantially from the pre-project conditions, because monitoring and maintenance activities associated with the Proposed Project would be similar to those conducted for the existing facilities. Therefore, there would be no impact.

Transportation and Traffic

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Construction activities associated with the Proposed Project would not adversely affect existing traffic patterns. Local traffic on Byron Highway, Bruns Road, and Kelso Road would increase slightly during construction, resulting from construction workers entering and exiting the site. During the 3-month period of peak construction, up to 12 vehicle trips would be made to and from the Proposed Project site in the a.m. and p.m. peak hours, and general construction traffic would include dump trucks hauling material to and from the site (potentially 50 trucks over 60 days – less than 1 truck a day on average). This increase in traffic would not affect the current level of service A on local roadways. Therefore, potential impacts would be less than significant.				

Utilities and Service Systems

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. Utilities and Service Systems Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒

Utilities and Service Systems

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒

Discussion

Operation of the Proposed Project would not require construction of new stormwater drainage facilities or require an increase in personnel; therefore, there would be no additional demand on local utilities and services. Construction workers are expected to come from the surrounding local communities, so an increase in or construction of utilities would not be needed. Therefore, there would be no impact.

Mandatory Findings of Significance

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. Mandatory Findings of Significance Would the project:				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Discussion

Special-status wildlife and floristic species could be affected within the pipeline construction corridor, construction area associated with Pump Station 3, and laydown and stockpiling area adjacent to Pump Station 3. Construction activities would also result in the temporary loss of up to 5.2 acres of non-native grassland habitat for wildlife. Stabilization of up to 0.5 acre of the access road may also prevent species from crossing to suitable upland habitat. Such impacts are temporary and would be minimized by implementing the environmental protection measures

Mandatory Findings of Significance

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
identified and are considered to have a "less-than-significant impact." In addition, construction activities associated with improvements to Pump Station 3 would result in the permanent loss of up to 0.2 acre of non-native grassland habitat for wildlife, and considering the size of the area is considered to have a "less-than-significant impact." The Proposed Project is providing water in exchange for CVP water, and by virtue of it being an exchange and not requiring new net water, there would be no cumulative impacts. As indicated throughout this Initial Study, impacts on all environmental resources were deemed to result in either "no impact" or a "less-than-significant impact." As a result, the Proposed Project would not create environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly, and the preparation of an EIR is not required.				

Section 5 Consultation and Coordination

Several federal and state laws, permits, licenses, and policy requirements have directed, limited, or guided the analyses and decision making processes of this IS and are discussed below.

5.1 Fish and Wildlife Coordination Act (16 USC § 661 et seq.)

The Fish and Wildlife Coordination Act requires that Reclamation consult with fish and wildlife agencies (federal and state) on all water development projects that could affect biological resources. The amendments enacted in 1946 require consultation with USFWS and state fish and wildlife agencies

> *whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, or by any public or private agency under Federal permit or license*.

Consultation is to be undertaken for the purpose of "preventing the loss of and damage to wildlife resources."

Reclamation has initiated formal consultation with USFWS, through Section 7 of the Endangered Species Act and has incorporated measures to reduce potential impacts to wildlife resources.

5.2 Endangered Species Act (16 USC § 1531 et seq.)

Section 7 of the Endangered Species Act requires Federal agencies, in consultation with the Secretary of the Interior and/or Commerce, to ensure that their actions do not jeopardize the continued existence of endangered or threatened species, or result in the destruction or adverse modification of the critical habitat of these species.

Reclamation has determined that the Proposed Action may affect, but is not likely to jeopardize, the continued existence of California red-legged frog, California red-legged frog critical habitat, California tiger salamander, and San Joaquin kit fox, and has initiated consultation with USFWS pursuant to section 7 of the Endangered Species Act.

5.3 National Historic Preservation Act (16 USC § 470 et seq.)/ State Historic Preservation Office

The NHPA requires that federal agencies give the Advisory Council on Historic Preservation an opportunity to comment on the effects of an undertaking on historic properties, properties that are eligible for inclusion in the NRHP. The 36 CFR Part 800 regulations implement Section 106 of the NHPA.

Section 106 of the NHPA requires federal agencies to consider the effects of federal undertakings on historic properties, properties determined eligible for inclusion in the NRHP. Compliance with Section 106 follows a series of steps designed to identify interested parties, determine the APE, conduct cultural resource inventories, determine if historic properties are present within the APE, and assess effects on identified historic properties.

Reclamation determined that there would be no adverse effect to historic properties, made pursuant to 36 CFR Part 800.5(b), and initiated consultation with SHPO on September 7, 2011. No response to date has been received by SHPO. Due to the passage of more than 30 days for the SHPO review period, Reclamation has concluded the Section 106 process for this undertaking.

5.4 Migratory Bird Treaty Act (16 USC § 703 et seq.)

The MBTA implements treaties and conventions between the United States and Canada, Japan, Mexico, and the former Soviet Union for the protection of migratory birds. Unless permitted by regulations, the MBTA provides that it is unlawful to pursue, hunt, take, capture, or kill; attempt to take, capture, or kill; or possess, offer to or sell, barter, purchase, deliver, or cause to be shipped, exported, imported, transported, carried, or received any migratory bird, part, nest, egg, or product, manufactured or not. Subject to limitations in the MBTA, the Secretary of the Interior may adopt regulations determining the extent to which, if at all, hunting, taking, capturing, killing, possessing, selling, purchasing, shipping, transporting, or exporting of any migratory bird, part, nest, or egg will be allowed, having regard for temperature zones, distribution, abundance, economic value, breeding habits, and migratory flight patterns.

The Proposed Project would not change land use patterns or threaten lands that have some value to birds protected under the MBTA. Pending the results of the pre-construction survey for raptors and burrowing owls, it is anticipated that the Proposed Project would have no take of birds protected by the MBTA.

5.5 Clean Water Act (16 USC § 703 et seq.)

The CWA is the principal federal legislation designed to protect the quality of the nation's waters. The purposes of the CWA include "the protection and propagation of fish, shellfish, and wildlife." The CWA provides for establishment of total maximum daily loads of pollutants where water bodies are not meeting established water quality standards. The CWA also includes provisions for states to assume much of the implementation responsibility, which is largely the case in California. CWA programs implemented by California include the NPDES program under CWA Section 402.

The Proposed Project would comply with the CWA through the Regional Water Quality Control Board. A Notice of Intent would be submitted and an SWPPP would be prepared under the general construction permit. This process would be completed through the Storm Water Multiple Application and Report Tracking System (SMARTS) system operated by the Regional Water Quality Control Board prior to construction.

No pollutants would be discharged into any Waters of the United States under the Proposed Action, so no water quality certifications under Section 401 of the Clean Water Act are required.

No activities such as dredging or filling of wetlands or surface waters would be required for implementation of the Proposed Action; therefore, permits obtained in compliance with Clean Water Act section 404 are not required.

5.6 Reclamation's Legal and Statutory Authorities and Jurisdiction Relevant to the Proposed Federal Action

Several federal laws, permits, licenses, and policy requirements have directed, limited, or guided Reclamation's analysis and decision-making process of this IS and include the following authorities.

5.6.1 Reclamation Project Act

Section 14 of the Reclamation Project Act of 1939 (53 Stat. 1197; 43 USC subsection 389) authorizes the Secretary of the Interior, for the purpose of orderly and economical construction or operation and maintenance of any project, to enter into such contracts for exchange or replacement of water, water rights, or electric energy or for the adjustment of water rights, as in his/her judgment are necessary and in the interests of the United States and the project.

5.6.2 Central Valley Project Improvement Act

The Central Valley Project Improvement Act (CVPIA) of 1992, Title 34 of Public Law 102-575, Section 3408, Additional Authorities (c), authorizes the Secretary of the Interior to enter into contracts pursuant to Reclamation law and this title with any federal agency, California water user or water agency, state agency, or private nonprofit organization for the exchange, impoundment, storage, carriage, and delivery of CVP and non-CVP water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose, except that nothing in this subsection shall be deemed to supersede the provisions of section 103 of Public Law 99-546 (100 Stat. 3051).

Reclamation completed the CVPIA Final Programmatic Environmental Impact Statement in October 1999, which analyzed alternatives and implementation of the CVPIA. The Record of Decision was signed in January 9, 2001.

5.6.3 Water Quality Standards

Reclamation requires that the operation and maintenance of CVP facilities be performed in such a manner as is practical to maintain the quality of raw water at the highest level reasonably attainable. Water quality and monitoring requirements are established annually by Reclamation and are instituted to protect water quality in federal facilities by ensuring that imported non-CVP water does not impair existing uses or negatively affect water quality conditions. These standards are updated periodically. The water quality standards are the maximum concentrations of certain contaminants that may occur in each source of non-CVP water. The water quality standards for non-CVP water to be stored and conveyed in federal facilities are those set out in Title 22 of the California Code of Regulations. See Appendix D for water quality requirements for use of the DMC.

Section 6 List of Preparers and Reviewers

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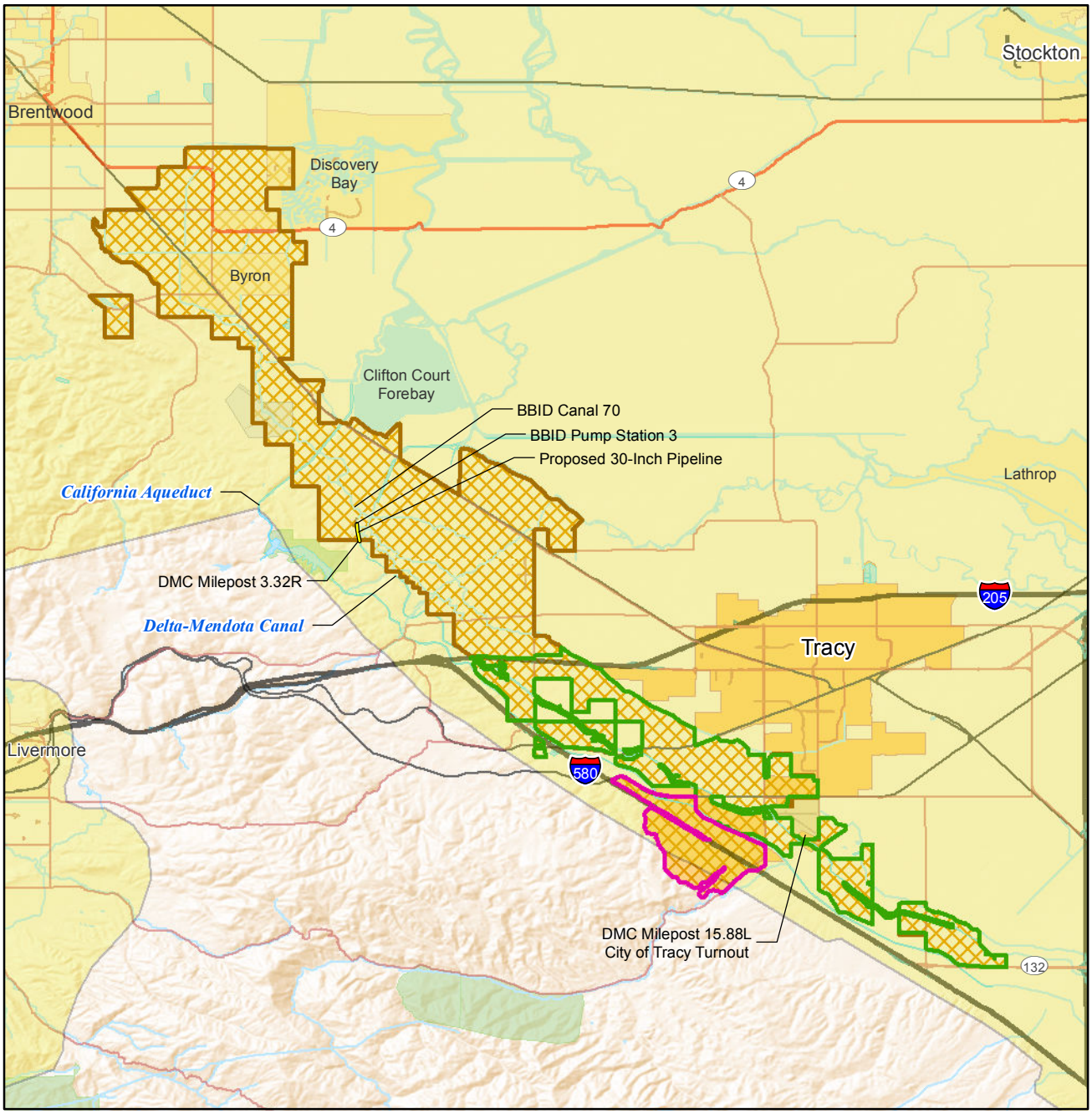
Figures



LEGEND

- BBID
- BBID RAW WATER SERVICE AREA 2
- BBID CVP SERVICE AREA
- CITY OF TRACY*
- APPROXIMATE CVP CONSOLIDATED PLACE OF USE (CPOU) BOUNDARY

N

0 10,000 20,000
Feet

FIGURE 1
PROPOSED PROJECT AREA
INITIAL STUDY
FOR BBID TRACY HILLS WATER SUPPLY PROJECT
ALAMEDA COUNTY, CALIFORNIA

* Source = City of Tracy GIS database.

LEGEND

- BBID FEATURE
- PROPOSED 30-INCH-DIAMETER PIPELINE
- 60-FOOT CONSTRUCTION CORRIDOR
- PROPOSED LAYDOWN AREA
- PROPOSED PUMP STATION 3 CONSTRUCTION AREA
- PROPOSED STABILIZED ACCESS ROAD

0 300 600
Feet

N

FIGURE 2
LOCATION OF PROPOSED PROJECT IMPROVEMENTS
INITIAL STUDY
FOR BBID TRACY HILLS WATER SUPPLY PROJECT
ALAMEDA COUNTY, CALIFORNIA

CH2MHILL

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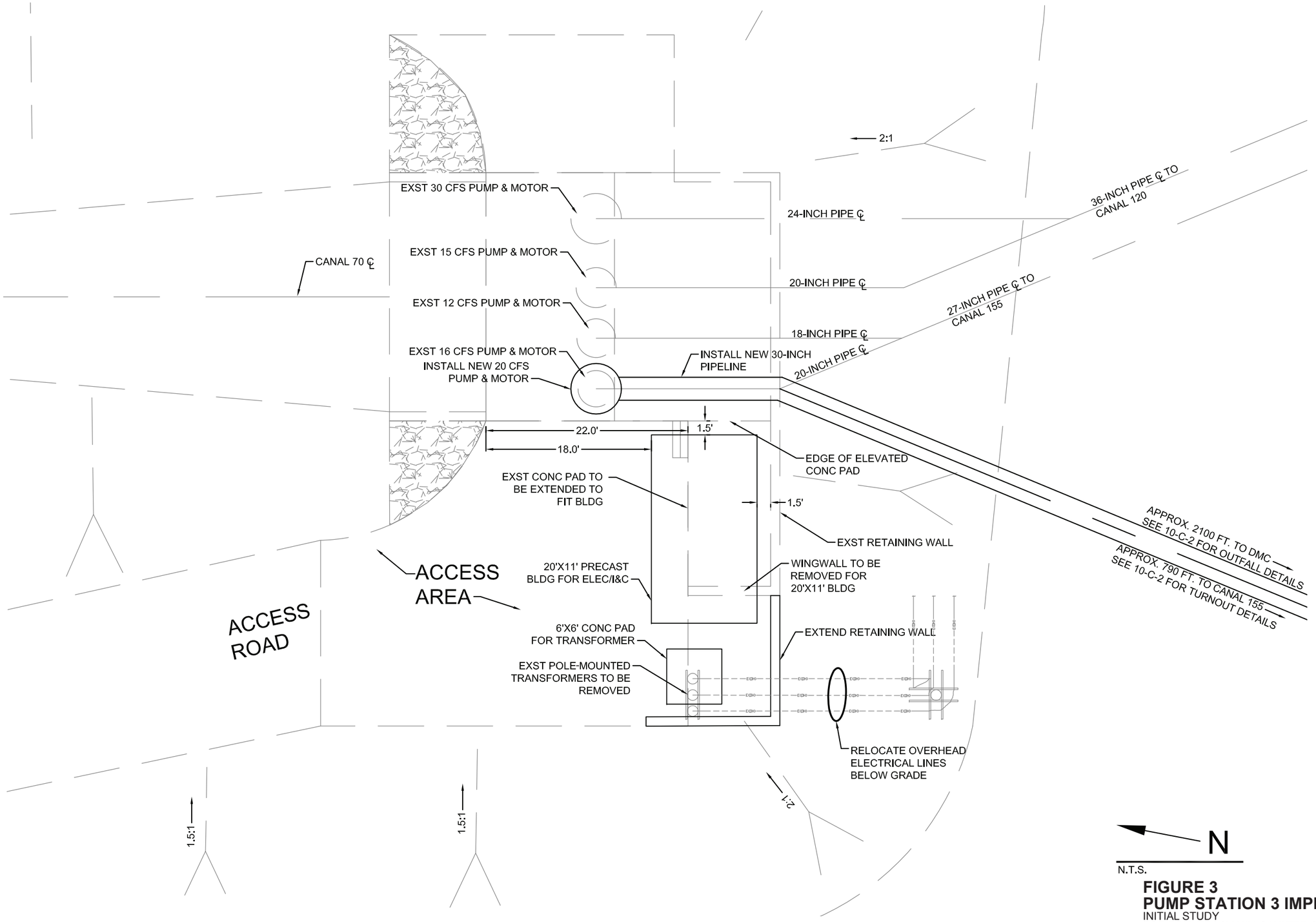

FIGURE 3
PUMP STATION 3 IMPROVEMENTS
INITIAL STUDY
FOR BBID TRACY HILLS WATER SUPPLY PROJECT
ALAMEDA COUNTY, CALIFORNIA

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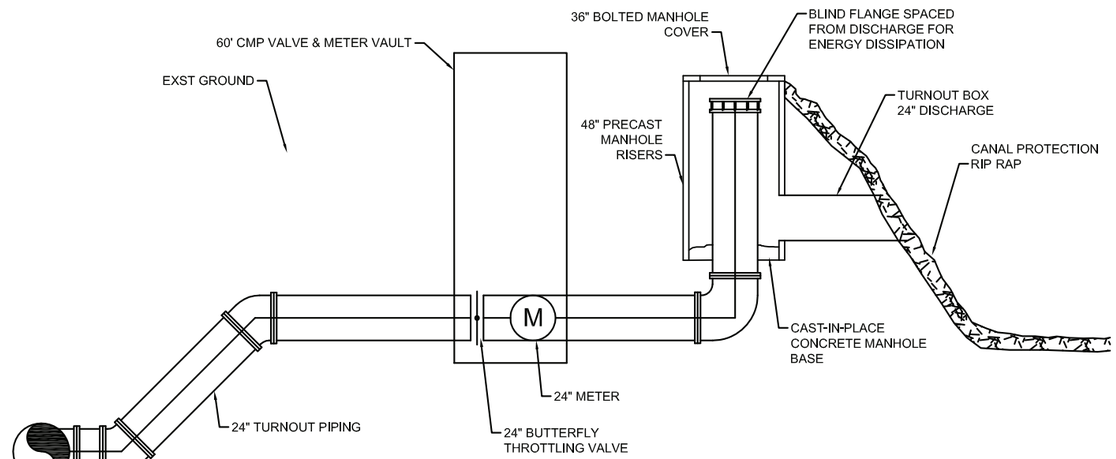
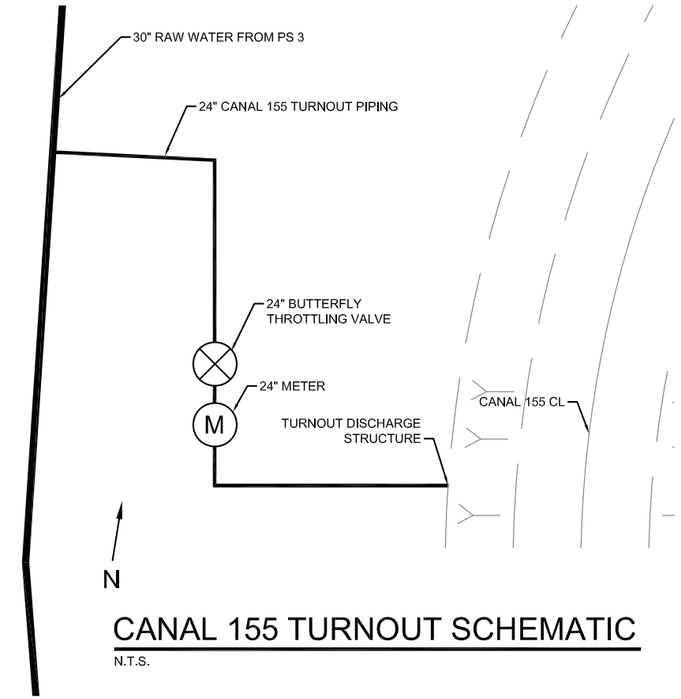


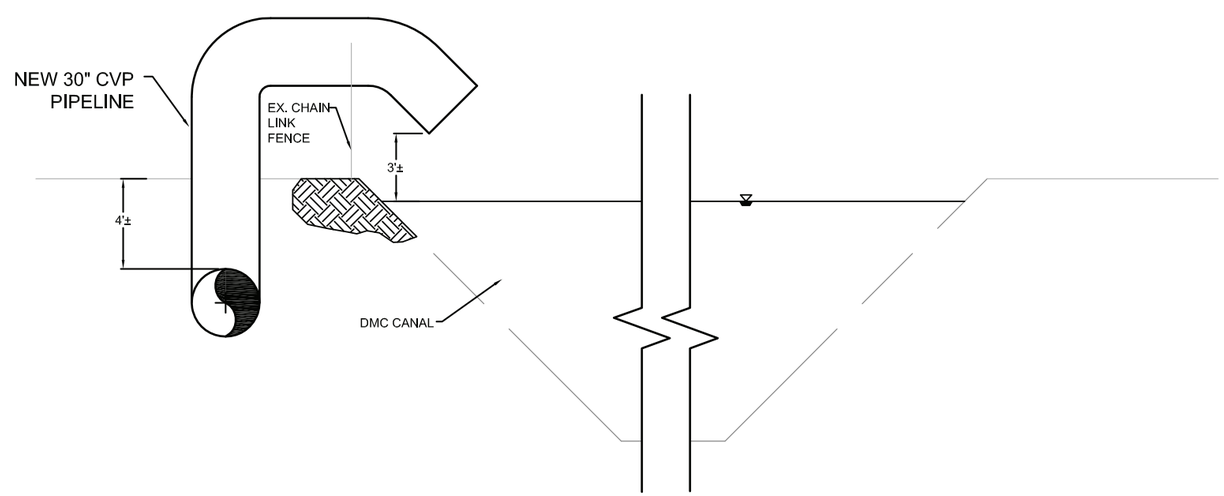
CANAL 155 TURNOUT SECTION

N.T.S.



CANAL 155 TURNOUT SCHEMATIC

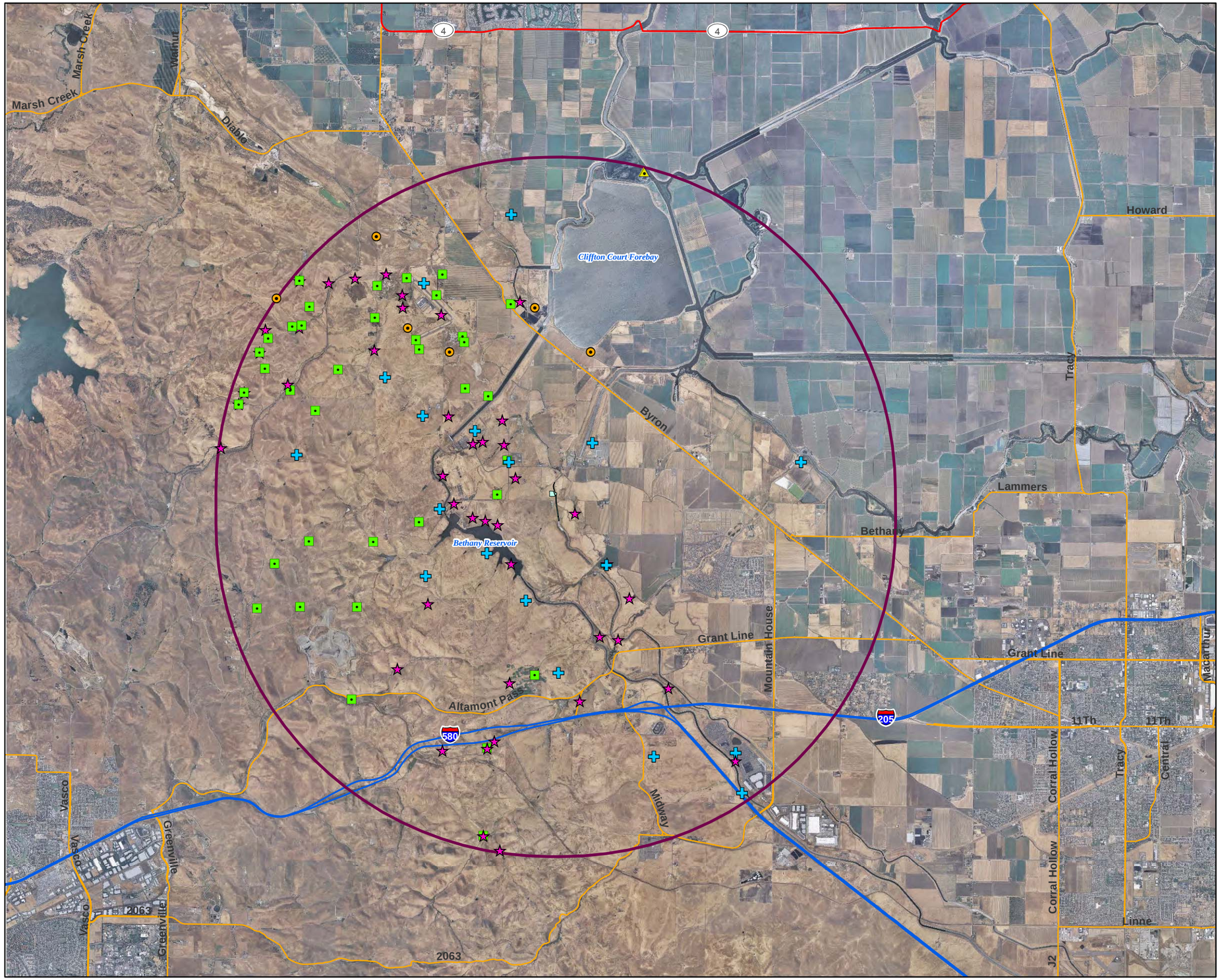
N.T.S.

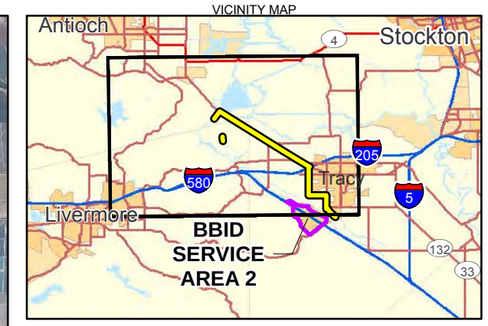


DMC OUTFALL SECTION

N.T.S.

FIGURE 4
CANAL 155 TURNOUT AND DELTA-MENDOTA CANAL OUTFALL DETAILS
INITIAL STUDY
FOR BBID TRACY HILLS WATER SUPPLY PROJECT
ALAMEDA COUNTY, CALIFORNIA





LEGEND

Federal Endangered or Threatened Species

- California red-legged frog
- California tiger salamander
- Delta smelt
- San Joaquin kit fox
- vernal pool fairy shrimp
- INTERSTATE
- US & STATE HIGHWAY
- ROAD
- 5-MILE BUFFER
- PROJECT STUDY AREA

N

0 1.5
Miles

FIGURE 5
CNDDB RECORDS OF FEDERAL-LISTED SPECIES WITHIN 5 MILES OF THE SITE

INITIAL STUDY
FOR BBID TRACY HILLS WATER SUPPLY PROJECT
ALAMEDA COUNTY, CALIFORNIA

CH2MHILL

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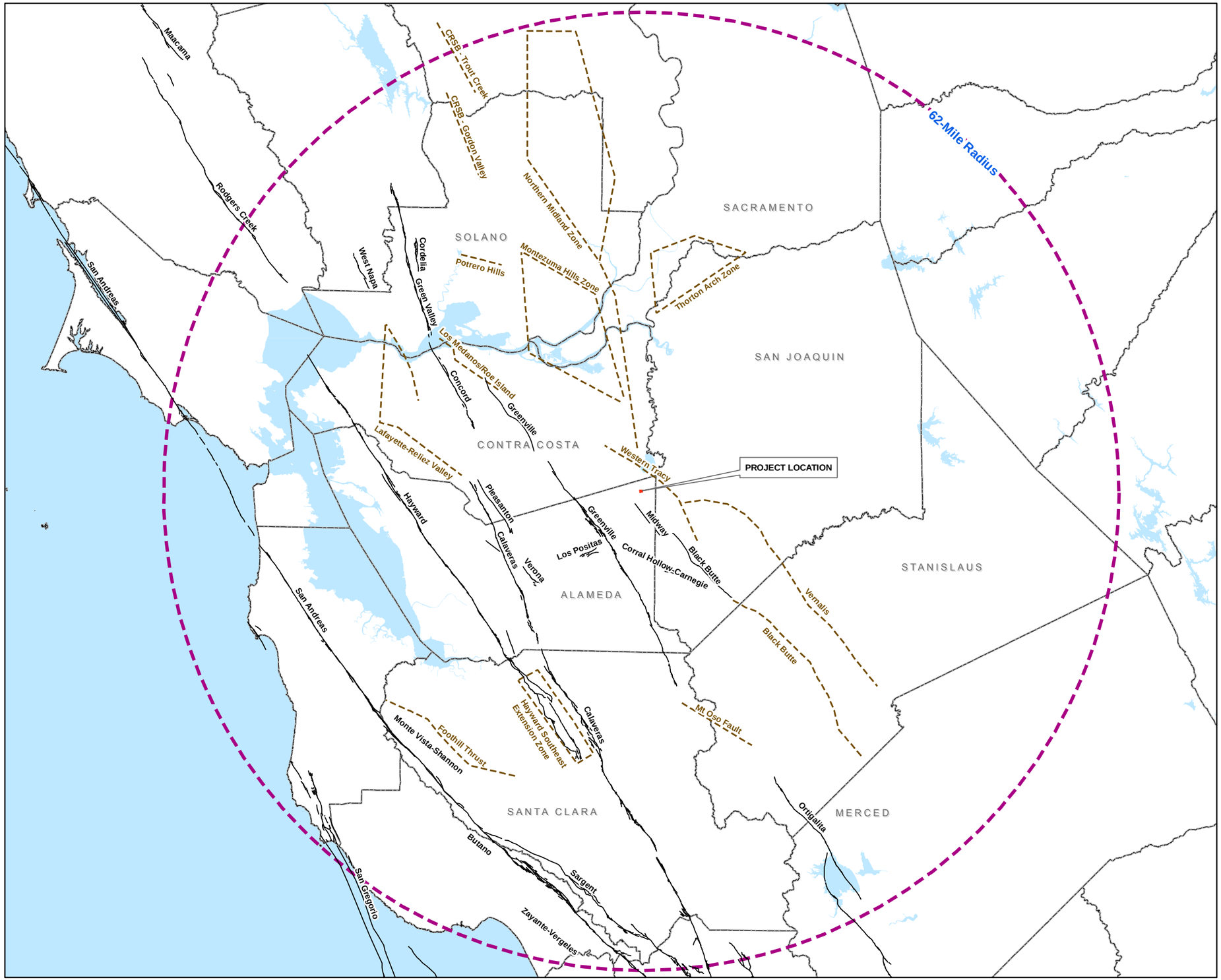


LEGEND

- USGS FAULTS
- DRMS REPORT FAULTS (DWR, 2007)
- BBID PROJECT AREA
- 62-MILE PROJECT RADIUS

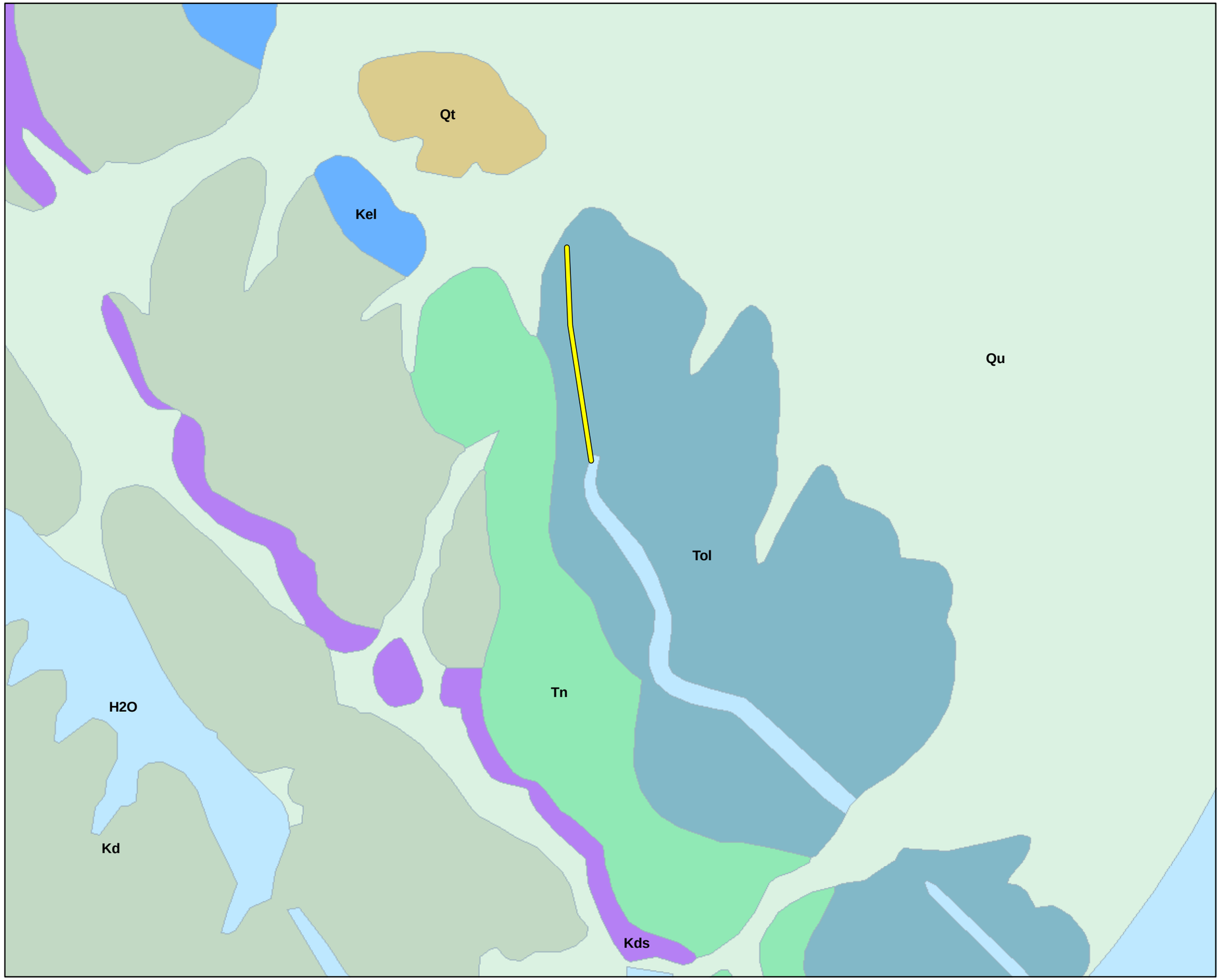
SOURCES:
1. DWR, 2007

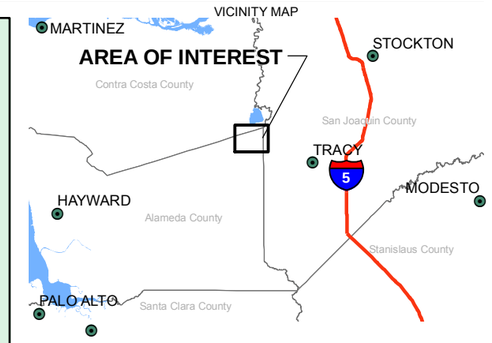
2. USGS (and CGS), 2006

N

0 6.5 13
Miles

FIGURE 6
SEISMIC SOURCES
INITIAL STUDY
FOR BBID TRACY HILLS WATER SUPPLY PROJECT
ALAMEDA COUNTY, CALIFORNIA





LEGEND

Proposed 30-Inch-diameter Pipeline

Geology Type

NAME

- Lower Unit D Siltstone (Kel)
- Neroly FM. Blue Sandstone (Tn)
- Oro Loma FM - Reddish Silt, Sand and Gravel (Tol)
- Terrace Deposits (Rt)
- Undifferentiated (Qu)
- Unit D Sandstone (Kd)
- Unit D Shale Member (Kds)

This map was compiled from various scale source data and maps and is intended for use as only an approximate representation of actual locations.

Source: USGS, 1997b

N

0 500 1,000
Feet

FIGURE 7
GEOLOGY
INITIAL STUDY
FOR BBID TRACY HILLS WATER SUPPLY PROJECT
ALAMEDA COUNTY, CALIFORNIA

CH2MHILL

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Appendix A
Technical Memorandum: Biological Reconnaissance-level Survey for Tracy Hills Water Supply Project

Biological Reconnaissance-level Survey for Tracy Hills Water Supply Project

PREPARED FOR: Rick Gilmore/BBID

PREPARED BY: Victor Leighton/CH2M HILL
Mark Oliver/CH2M HILL

DATE: December 18, 2009

Introduction

This technical memorandum documents the results of the biological reconnaissance-level survey conducted by Victor Leighton and Mark Oliver, as well as a subsequent meeting and discussions with the U.S. Bureau of Reclamation (Reclamation). A field review was conducted on September 16, 2009, from Pump Station 3 to the Delta-Mendota Canal (DMC) project area located approximately 6 miles southeast of the City of Byron, California (Figures 1 and 2). The proposed pipeline alignment passes through primarily private land that ranges in elevation from approximately 80 and 160 feet above mean sea level. The meeting with Reclamation was held on November 24, 2009, at Byron Bethany Irrigation District's (BBID) office.

The objectives of the biological reconnaissance-level survey were as follows:

- Characterize and document the vegetation habitats within the proposed pipeline alignment, and construction and laydown areas
- Evaluate the potential for special-status plant and wildlife species presence
- Identify the potential for waters of the United States (U.S.) and of the State
- Identify the potential need for focused biological surveys necessary for project implementation (the survey conducted represented a reconnaissance–level survey and was neither intended to serve as nor would it satisfy a protocol-level survey)

Regulatory Setting

In addition to the California Environmental Quality Act (CEQA), several federal and state agencies, policies, statutes, and codes enforce the protection of biological resources. The U.S. Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration National Marine Fisheries Service are responsible for implementing the federal Endangered Species Act (ESA); USFWS also implements the Migratory Bird Treaty Act (MBTA). Jurisdictional wetlands are overseen by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. The California Department of Fish and Game (CDFG) administers the California Endangered Species Act, which protects state-listed species. CDFG is also responsible for regulating streams, water bodies, and riparian

corridors through the Streambed Alteration Agreement process under Section 1600 of the CDFG Code, and under Section 3503.5, protecting wildlife and sensitive habitats.

Currently, a new energy center (Diamond Energy Center) is being proposed just west of the proposed BBID Pump Station 3 to the DMC project area. Because CH2M HILL is assisting with the permitting of this project, and in contact with various agencies, involved CH2M HILL staff members were consulted as to current issues including mitigation requirements relevant to the proposed project.

Recommendations

The potential presence of California tiger salamander (CTS), California red-legged frog (CRLF), and other listed species that could be present will require that additional surveys be conducted and/or presence be assumed. It is recommended that BBID determine the preferred course of action related to how best to address the potential presence of CTS, in particular, given the required 2-year survey protocol. As discussed below, Reclamation's reluctance to act as the federal lead to support a Section 7 consultation with the USFWS will require BBID to consult through Section 10 process.

Potential necessary protocol (including time of year) surveys include the following:

- CRLF survey (or assume presence)
- CTS survey (or assume presence) and delineate stock pond located west of the proposed pipeline alignment
- Nesting bird survey immediately prior to construction and use nesting avoidance work window
- Western burrowing owl (BUOW) survey
- San Joaquin kit fox (SJKF) survey
- Floristic botanical surveys

Methods

CH2M HILL conducted queries of several databases to identify the potential for special-status plants, wildlife, and natural sensitive habitats to occur at the project area (Figure 3). Special-status species are defined as those plants or animals, either federal or state listed, or proposed for listing by the USFWS or the State of California. These species also include any sensitive species from the California Natural Diversity Database (CNDDB) and California Native Plant Society (CNPS) (CDFG, 2009; CNPS, 2009; USFWS, 2009). All queries included the U.S. Geological Survey (USGS) 7.5-minute quadrangle covered by the Project area (Clifton Court Forebay), as well as the eight adjacent quadrangles (Byron Hot Springs, Union Island, Altamont, Midway, Tracy, Holt, Woodward Island, and Brentwood). The CNDDB and USFWS queries document those special-status species known to occur in areas in which surveys have been conducted. Additional special-status species could occur beyond those listed in the CNDDB, CNPS, and USFWS.

Results

The results of the reconnaissance-level survey are separated into four sections: vegetation, special-status plants, special-status wildlife, and waters of the U.S., including wetlands. Representative photographs of the project area are located in Attachment 1.

Vegetation

The area is dominated by California annual grassland in the project area (CDFG, 2003; Holland, 1986). Most of the grassland habitats are actively grazed. California annual grassland (42.040.00) is a vegetation type of dense annual grasses and forbs that corresponds to Holland's nonnative grassland (1986). This is a naturalized community although most of the species are nonnative. Dominant plant species observed were yellow star-thistle (*Centaurea solstitialis*), rat-tail fescue (*Vulpia myuros*), gum plant *(Grindelia sp.)*, and dove weed *(Croton setigerus)*.

An ephemeral blue line feature that originates at the Bethany Reservoir, as well as a stock pond, is located on the western edge of the proposed project alignment (Figure 2). The portion of the ephemeral feature adjacent to the project area does not have a riparian vegetation type as defined by Holland (1986) or Sawyer and Keeler-Wolf (1995). The stock pond is a perennial water source and, as such, wetland vegetation components are found along the margins of the pond. The species associated with the pond are rabbits foot grass *(Polypogon monspeliensis)*, rush *(Scirpus acutus),* mana grass *(Glyceria sp.)*, and spike rush *(Eleocharis macrostachya)*. The approximate 1-acre stock pond is not managed or supplied by BBID, and the source of water for the stock pond is unknown. Wetland "seep" vegetation species occur upslope of the stock pond. The wet conditions that support these species are apparently associated with leakage from Canal 155 upslope through a drain pipe that has no valve.

Special-status Plant Species

No special-status plant species were observed within the project area; however, this was not the focus of this survey and does not limit the potential for special-status vegetation species from occurring in the right-of-way. Several federal- or state-listed species are within range and have potentially suitable habitat within the project area. An analysis by habitat component of the special-status plant species identified by the CNDDB, CNPS, and USFWS are included in Attachment 2. Floristic surveys and requirements are outlined in the recommendation section of this report.

Special-status Wildlife Species

An analysis of the USFWS and CNDDB indicated that seven federal- or state-listed wildlife species have the potential to occur in the project area: California red-legged frog (*Rana draytonii*), California tiger salamander *(Ambystoma californiense)*, western pond turtle *(Actinemys marmorata)*, Swainson's hawk *(Buteo swainsoni),* western spadefoot (*Spea hammondii*), western burrowing owl *(Athene cunicularia)*, and San Joaquin kit fox *(Vulpes macrotis mutica)*. A dead western pond turtle, a California Species of Special Concern, was observed on the edge of the stock pond adjacent to the project area during the survey. Several other special-status wildlife species also have potential to occur in the project area and are discussed in the recommendations section. Not all species included in the CNDDB

and USFWS queries have the potential to occur in the project area; however, the lists are included in Attachment 2 as a reference.

The wildlife species observed during the reconnaissance-level survey are typical species associated with nonnative grassland habitat, which includes California ground squirrel (*Spermophilus beecheyi*), loggerhead shrike (*Lanius ludovicianus*), and swallows *(Petrochelidon sp.).* Attachment 3 provides an outline of survey requirements and distance from habitat triggering potential impacts on listed species considered to be potentially affected by the project.

Discussions with Reclamation indicate that it does not want to participate in the Section 7 consultation process with the USFWS because of the limited nature of Reclamation's involvement in the project. As such, consultation with the USFWS through Section 10 of the ESA will be required, which typically is much more involved than the Section 7 process. Review of existing habitat conservation plans (HCP) indicates the following:

- San Joaquin Council of Governments has an existing HCP/natural community conservation plan (NCCP) for San Joaquin County; however, this project is located 1.68 miles west of San Joaquin County in eastern Alameda County.
- The Altamont pass wind resource area HCP/NCCP is immediately adjacent to the project site; however, the HCP/NCCP is not complete and would not likely provide coverage for a water infrastructure project.
- The East Alameda County Conservation Strategy is under development; however, the actual conservation strategy is not yet complete. The conservation strategy will result in a programmatic biological opinion (BO) for eastern Alameda County. A list of potential project types for inclusion in the BO are listed below, and it appears that there is at least some potential that this process could be used for take coverage if the final strategy document reflects these draft provisions.

  The list of projects that could be included in a programmatic BO include the following:

  1. Residential and commercial development (e.g., housing, retail, business parks, recreational parks)
  2. Infrastructure (e.g., utility pipelines, water treatment facilities, roadways, canals, cell towers, transmission lines, wastewater treatment facilities, trails, landfills, solar generation facilities
  3. Preserve management

California Red-legged Frog, Federally Threatened

The stock pond and upland vegetation provides potentially suitable habitat for CRLF, which is a federally threatened species. The proposed project area is located approximately 7.8 miles east of designated CRLF critical habitat unit, CRLF ALA-1A. Suitable habitat for CRLF includes drainages or watersheds and all bodies of water that support frogs (i.e., stream, creeks, tributaries, associated natural and artificial ponds, and adjacent drainages), and habitats through which frogs can move (i.e., riparian vegetation, uplands) (USFWS, 2002).

California Tiger Salamander, Federally Threatened, State Candidate Endangered

Suitable habitat for CTS include seasonal or perennial aquatic resources, which includes vernal pools, stock ponds, or other aquatic ponded features that hold water for more than 90 days. The onsite stock pond provides suitable habitat for CTS. Adjacent upland land within 1.2 miles of the stock pond is considered suitable upland habitat wherein CTS could migrate.

Western Burrowing Owl, State Species of Special Concern

No western BUOW were observed onsite; however, the entire site and surrounding areas contained large ground squirrel complexes. These fossorial mammal complexes can provide potential nesting locations for western BUOW.

San Joaquin Kit Fox, Federally Endangered

No SJKF were observed onsite; however the site contains some burrow holes that are of sufficient size to potentially support SJKF. SJKF are found in eastern Alameda County and within 0.75 mile of the site.

Birds

The project does not contain any trees that could serve as potential nesting habitat for species protected by the MBTA. However, large trees suitable for Swainson's hawks occur within 0.5 mile of the site. The MBTA also includes ground nesting species such as killdeer. Inactive swallow nests were observed under the Pump Station 3 covered awning.

Wetlands, Waters of the United States, and Waters of the State

An unnamed ephemeral drainage with headwaters at Bethany Reservoir, and in the hills a few miles southwest of the project location, flows approximately northeast with no apparent outlet or connection to navigable waters downstream. At the time of the survey, the active channel had no moving water within the project area, but the stock pond was full. The stock pond is not managed or supplied by BBID. The stock pond appears to receive a small degree of water from Canal 155 upslope through a drain pipe that has no valve and likely receives runoff during the winter months. The stock pond contains a drain pipe that appears to maintain maximum water levels within the pond. Excess water flows out of the un-valved drain pipe to the northwest through a series of shallow constructed drainages into overland flow.

None of the proposed project improvements will cross state or federal waters or wetlands. It is recommended, however, that the stockpond be delineated to assist in the Section 10 consultation process as determined necessary.

Plants

Rare Plant Survey – Recommend following the floristic botanical survey guidelines of the CDFG (2000), and those of the CNPS (2001). It is recommended that surveys for special-status plant species be conducted in spring 2010. Although not considered likely, multiple surveys may be required in 2010 within the March through July timeframe to account for different blooming periods.

Amphibians

California Red-legged Frog – Protocol-level surveys are required for CRLF using the *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog* (USFWS, 2005). Surveys may begin anytime during January and should be completed by the end of September. Multiple survey visits conducted throughout the survey-year (January through September) increases the likelihood of detecting the various life stages of CRLF. For example, adult frogs are most likely to be detected at night between January 1 and June 30, somewhere near a breeding location; whereas, sub-adults are most easily detected during the day from July 1 through September 30. Based on the information provided in the site assessment report and the survey results, USFWS will provide guidance on how CRLF issues should be addressed through the Section 10 process because it appears that Reclamation does not want to act as the federal lead under Section 7.

An optional method is to assume presence and mitigate through an HCP/NCCP or local mitigation bank. This approach might be preferable given survey versus mitigation costs.

California Tiger Salamander – Protocol-level surveys are required for CTS. A survey for this species is a 2-year process with survey period occurring from October 15 through May 30. If potential habitat occurs within 1.24 to 2 miles from potential breeding habitat, surveys will be required and will follow the *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander* (USFWS, 2003). CTS may aestivate (shelter in underground burrows or debris) in upland grassland areas within 2 miles of this project location.

An optional method is to assume presence and mitigate through an HCP/NCCP or local mitigation bank if available. This approach may be preferable given survey timing as well as mitigation costs.

Birds

If construction will occur during the breading and nesting season (March 1 through September 15) a preconstruction survey should be conducted by a qualified biologist 14 days prior to construction activities to determine the presence/absence of nesting avian species. If an active nest of a non-listed bird protected under the federal MBTA is discovered during preconstruction surveys or during construction, clearing and construction within 100 feet of the nest would be postponed until the nest is vacated, the juveniles have fledged as determined by the biologist, and there is no evidence of second nesting attempts. Reduction of buffers would require consultation and approval from USFWS and/or CDFG. Disturbance or removal of vegetation will be timed to avoid impacts on nesting migratory birds (August through February):

- To avoid impacts on nesting avian, project activity will not be conducted during the breeding season (generally March 1 through September 15).
- If avoidance of project activity during the breeding season is not feasible, preconstruction survey will be conducted by a qualified biologist to identify active nests within or adjacent to the project area. To the extent feasible, guidelines will be provided for the various raptor and special-status avian species for timing, and methodology to be followed.

- If no active nests are found in the survey area, no further mitigation is necessary.
- If an active nest is located, loss of foraging habitat for certain raptor species might require mitigation. Appropriate ratios for mitigation of lost foraging habitat will be determined in consultation with USFWS and/or CDFG.

Swainson's Hawk – Swainson's hawks could nest in isolated trees in the project area. If construction will occur during the breading and nesting season (March 1 through August 15) a preconstruction survey should be conducted prior to construction activities. Conduct preconstruction survey between March 20 and April 20 for Swainson's hawks within 0.5 mile of construction activities. If nesting Swainson's hawks are found within 0.5 mile of the project site, avoidance and minimization measures consistent with the *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks* (*Buteo swainsoni*) *in the Central Valley of California* (CDFG, 1994) would be implemented as follows:

- No construction activities would occur within 0.25 mile of an active nest between March 1 and August 15. The buffer zone would be increased to 0.5 mile in nesting areas away from urban development (i.e., in areas where disturbance [such as heavy equipment operation associated with construction, use of cranes or draglines, or rock-crushing activities] is not a normal occurrence during the nesting season). If project activities that could cause nest abandonment or forced fledging are necessary within the buffer zone, consultation with CDFG to determine the appropriate actions to avoid nest abandonment will need to be conducted.
- Nest trees would not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a management authorization (including conditions to offset the loss of the nest tree) must be obtained from CDFG with the tree removal period specified in the management authorization, generally between October 1 and February 1.

Western Burrowing Owl – Protocol surveys will need to be conducted at a minimum of 14 days prior to construction. It is recommended that potential nests be evaluated in the spring of 2010 to determine if additional evaluation is necessary.

If construction activities would occur within 250 feet of an active burrowing owl nest, the avoidance, minimization, and mitigation measures for impacts on burrowing owls would be established in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG, 1995) and would be implemented (under CDFG approval) as follows:

- Construction activities will be located at least 250 feet away from active western BUOW burrows during the breeding season (February 1 through August 31) and at least 160 feet from occupied western burrowing owl burrows during the non-breeding season (September 1 through January 31).
- Active burrows will be marked (i.e., fencing, staking) as environmentally sensitive areas/exclusion zones for avoidance by construction personnel for the duration of nearby construction activities. When construction activities are no longer occurring within 250 feet of an active burrow, the marking will be removed.

Where the exclusion zones cannot be fully implemented, the following measures will be implemented:

- Occupied burrows will not be disturbed during the nesting season (February 1 through August 31) unless the biologist verifies through non-invasive methods that either: (1) the birds have not begun egg-laying and incubation or (2) that juveniles from occupied burrows are foraging independently and are capable of independent survival. When destruction of occupied burrows is unavoidable, existing unsuitable burrows will be enhanced (enlarged or cleared of debris) or new burrows created (by installing artificial burrows) at a ratio of 2:1 on adjacent habitat. If western BUOWs must be moved away from the disturbance area, passive relocation techniques will be used, rather than trapping. At least 1 week will be needed to accomplish this and allow the western BUOWs to acclimate to alternate burrows.
- Western BUOWs will be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing passive one-way doors in burrow entrances. One-way doors (e.g., modified dryer vents) would be left in place for 48 hours to ensure that western BUOWs have left the burrows before excavation. Two natural or artificial burrows would be provided for each burrow in the project area that would be rendered unsuitable for use. The project area would be monitored daily for 1 week to confirm that western BUOWs are using the new burrows, before excavating burrows in the impact zone. Whenever possible, each burrow would be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe would be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow.
- Two natural or artificial burrows would be provided for each burrow in the project area that would be rendered unsuitable for use. The project area would be monitored daily until the western BUOWs have relocated to the new burrows. The formerly occupied burrows may then be excavated. When possible, each burrow would be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe would be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow.

Mammals

SJKF and American Badger – It is recommended that potential dens be evaluated in spring of 2010 to determine potential denning and nesting sites or if additional evaluations are necessary.

A preconstruction biological survey should be conducted prior to the beginning of earth-moving activities within the project area and area of effect (within 250 feet) to ensure that no special-status denning wildlife (western BUOW, American badger, or SJKF) or potentially occupied burrows are present. Surveys for SJKF will follow *U.S. Fish and Wildlife Service San Joaquin Kit Fox Protocol for the Northern Range* (USFWS, 1999). Surveys will be conducted within the same year as the proposed project construction. The site assessment

protocol survey timeframe will be from May 1 through November 1. The following measures should be taken when conducting these surveys:

- If special-status wildlife species are identified within the proposed work area, CDFG and USFWS will be consulted and appropriate mitigation measures will be implemented, including avoidance measures.
- Occupied dens should not be disturbed during the denning season, from February 1 through August 31, unless the USFWS verifies that SJKFs have left the area and are foraging independently and capable of independent survival at an earlier date.
- Burrows would be cleared similarly to methodology outlined in the western BUOW section of this report or as directed by the USFWS.

Permits

The following permits and approvals will likely be required prior to construction:

- USFWS, Section 7 Permit (for CTS and CRLF, and potentially other species)
- Central Valley Regional Water Quality Control Board – Section 402, stormwater permit for construction.

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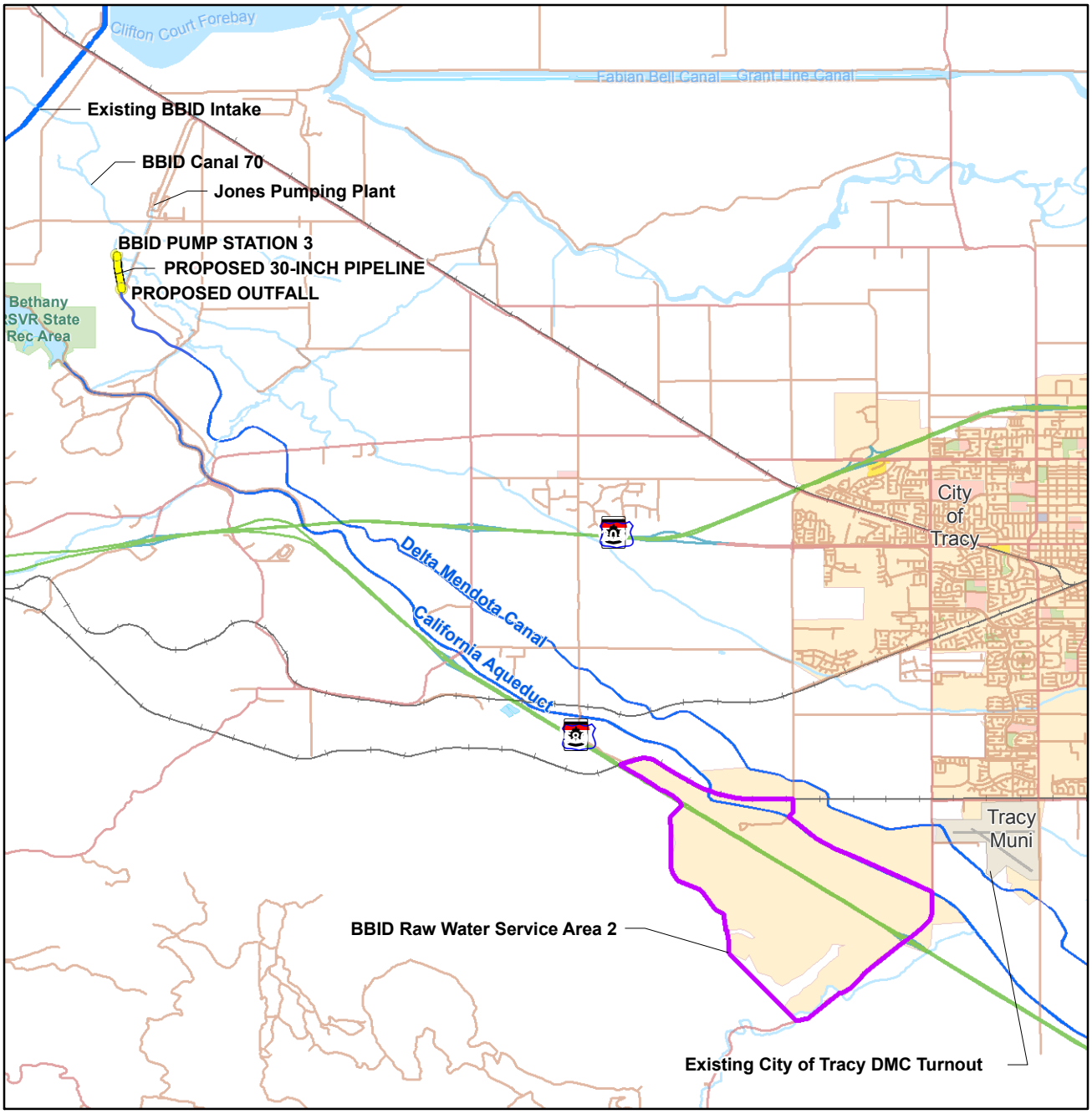
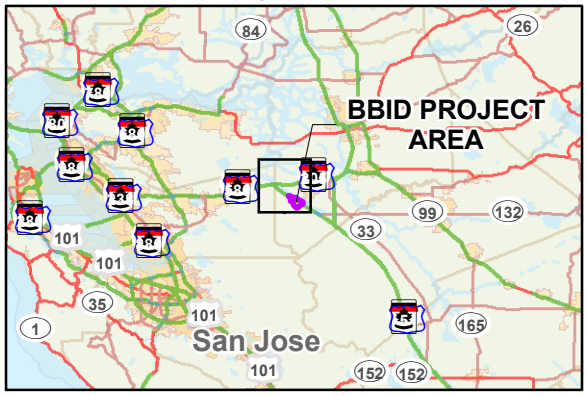


LEGEND

- INTERSTATE
- PRIMARY US & STATE HIGHWAY
- SECONDARY US & STATE HIGHWAY
- ROAD
- RAILROAD
- BBID RAW WATER SERVICE AREA 2
- CITY AREA

VICINITY MAP



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Feet

FIGURE 1
PROJECT AREA
BBID TRACY HILLS WATER SUPPLY PROJECT
TRACY, CALIFORNIA

CH2MHILL

\\THOR\CART1\PROJECTS\BBID_154679\MAPFILES\FIG1_BBID_LOCATION.MXD ECLARK1 12/18/2009 13:35:49

LEGEND

- BBID_FEATURE
- PROPOSED 30-INCH PIPELINE
- 60-FOOT CONTRUCTION CORRIDOR
- PROPOSED LAYDOWN AREA
- PROPOSED PUMP STATION 3 CONSTRUCTION AREA
- PROPOSED STABILIZED ACCESS RAOD

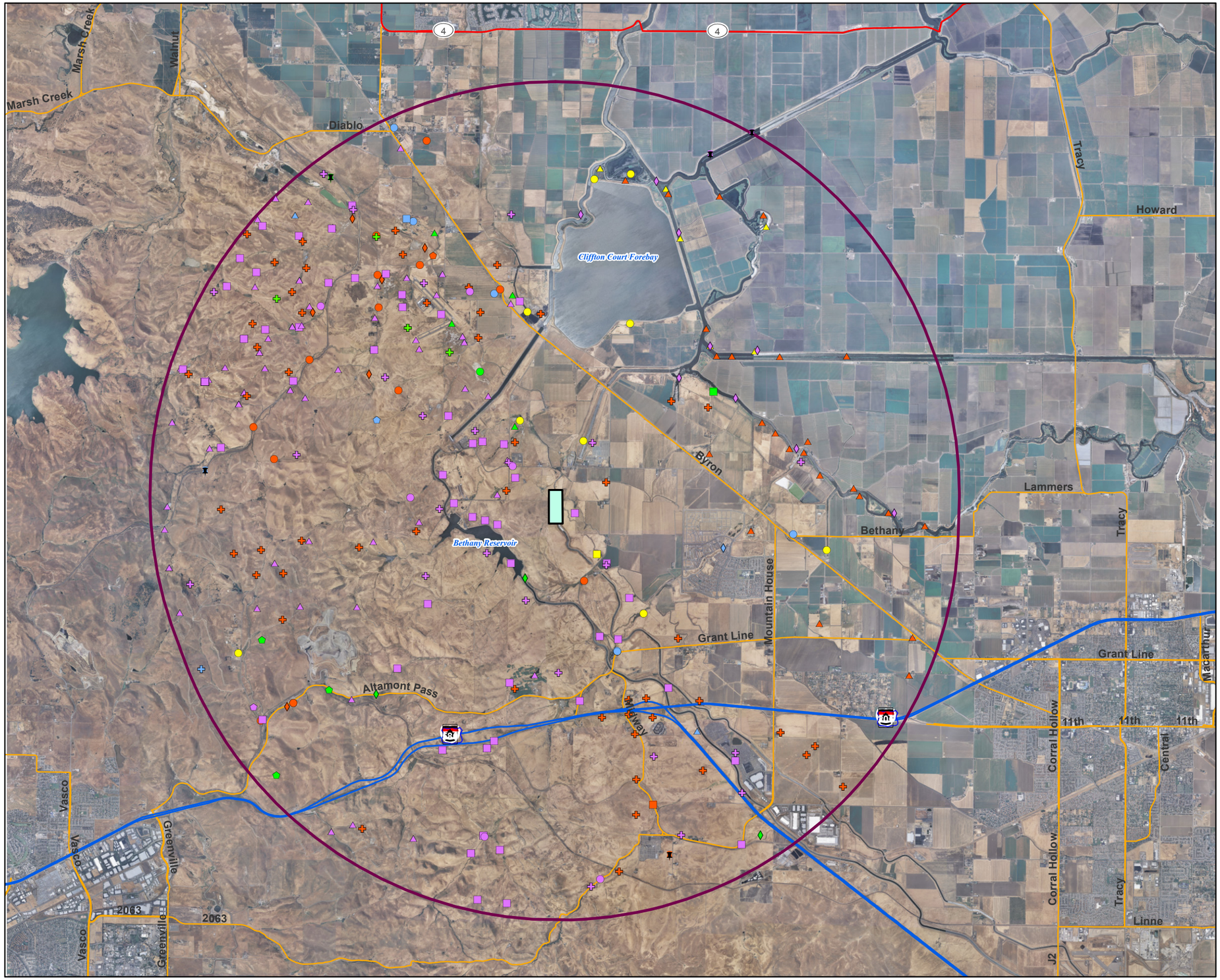
0 300 600
Feet

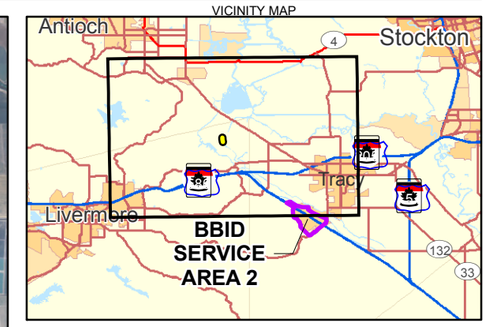
N

FIGURE 2
LOCATION OF PROJECT IMPROVEMENTS
BBID TRACY HILLS WATER SUPPLY PROJECT
TRACY, CALIFORNIA

CH2MHILL

\\THOR\CART1\PROJECTS\BBID_154679\MAPFILES\FIG2_BBID_FACILITIES.MXD ECLARK1 12/18/2009 13:36:51





LEGEND

- American badger
- California red-legged frog
- California tiger salamander
- Congdon's tarplant
- Delta mudwort
- Mason's lilaeopsis
- San Joaquin kit fox
- San Joaquin spearscale
- San Joaquin whipsnake
- Swainson's hawk
- alkali milk-vetch
- big tarplant
- brittlescale
- burrowing owl
- caper-fruited tropidocarpum
- chaparral ragwort
- coast (California) horned lizard
- diamond-petaled California poppy
- golden eagle
- loggerhead shrike
- longhorn fairy shrimp
- midvalley fairy shrimp
- northern harrier
- recurved larkspur
- round-leaved filaree
- stinkbells
- tricolored blackbird
- vernal pool fairy shrimp
- western pond turtle
- white-tailed kite
- woolly rose-mallow
- INTERSTATE
- US & STATE HIGHWAY
- ROAD
- 6-Mile Buffer
- Project Study Area

N

0 1.5
Miles

FIGURE 3
CNDDB RECORDS OF SPECIAL-STATUS SPECIES WITHIN 6 MILES OF THE SITE

BBID TRACY HILLS WATER SUPPLY PROJECT, TRACY, CALIFORNIA

CH2MHILL

\\THOR\CART1\PROJECTS\BBID_154679\MAPFILES\FIG3_BBID_CNDDB.MXD ECLARK1 12/18/2009 13:39:42

Attachment 1
Representative Photographs

Photograph 1, Canal 70 at Pump Station 3, view north.

Photograph 2, Proposed laydown area west of Pump Station 3, view east.

Photograph 3, seep or leaking pipe on east side of PS 3, view south.

Photograph 4, view from proposed laydown area at PS 3 towards DMC; proposed pipeline alignment, view south.

Photograph 5, East side of stock pond, view south.

Photograph 6, View from DMC towards PS 3, view north along proposed pipeline alignment.

Photograph 7, Canal 155 near proposed turnout for pipeline alignment, view north.

Photograph 8, Ground squirrel complexes found throughout site.

Photograph 9, Dead western pond turtle on bank of stock pond.

Attachment 2
Special-status Species Table

ATTACHMENT 2
Comprehensive List of Special-status Species Potentially Occurring in the BBID Tracy Hills Raw Water Supply Project

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
Plants					
Large-flowered fiddleneck	*Amsinckia grandiflora*	FE, CE, CNPS 1B, ECCHCP: No; EACCS: No	Apr-May	Cismontane woodland, valley and foothill grassland.	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.
Bent-flowered fiddleneck	*Amsinckia lunaris*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Coastal bluff scrub, cismontane woodland, valley and foothill grassland.	Low; project area dominated by nonnative annual grasses and forbs. Occurs approximately 5 miles from the project area.
Alkali milk-vetch	*Astragalus tener* var. *tener*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Playas, valley and foothill grassland, vernal pools/alkaline.	Low; alkaline wetland areas lacking in project area. Records from approximately 3 miles from project area.
Heartscale	*Atriplex cordulata*	CNPS 1B, ECCHCP: No; EACCS: No	Apr-Oct	Chenopod scrub, meadows and seeps, valley and foothill grassland.	Moderate; there are no known records of occurrence in the project area, but potential alkaline conditions exist along segments of project linears.
Brittlescale	*Atriplex depressa*	CNPS 1B, ECCHCP: Yes; EACCS: No	Apr-Oct	Chenopod scrub, meadows and seeps, playas, valley and foothill grassland, vernal pools.	Moderate; potential alkaline conditions exist along segments of project linears. Occurrences within 3 miles of the project area.
San Joaquin spearscale	*Atriplex joaquiniana*	CNPS 1B, ECCHCP: Yes; EACCS: Yes	Apr-Oct	Chenopod scrub, meadows and seeps, playas, valley and foothill grassland/alkaline.	Moderate; potential alkaline conditions exist along segments of project linears. Occurs within approximately 1.3 miles of project area.
Big-scale balsamroot	*Balsamorhiza macrolepis* var. *macrolepis*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Chaparral, cismontane woodland, valley and foothill grassland.	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.
Big tarplant	*Blepharizonia plumosa*	CNPS 1B, ECCHCP: Yes; EACCS: Yes	Jul-Oct	Valley and foothill grassland.	Low; project area dominated by nonnative annual grasses and forbs. Occurs approximately 5 miles from the project area.

ATTACHMENT 2
Comprehensive List of Special-status Species Potentially Occurring in the BBID Tracy Hills Raw Water Supply Project

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
Round-leaved filaree	*California macrophylla*	CNPS 1B, ECCHCP: Yes; EACCS: No	Mar-May	Cismontane woodland, valley and foothill grassland.	Low; project area dominated by nonnative annual grasses and forbs. Occurrences within 2.5 miles of the project area.
Bristly sedge	*Carex comosa*	CNPS 2, ECCHCP: No; EACCS: No	May-Sep	Coastal prairie, marshes and swamps (lake margins), valley and foothill grassland.	Low; potentially suitable habitat in project area is disturbed. There are no known records of occurrence within 6 miles of the project area.
Brown fox sedge	*Carex vulpinoidea*	CNPS 2, ECCHCP: No; EACCS: No	May-Jun	Marshes and swamps (freshwater), riparian woodland.	Low; potentially suitable habitat in project area is disturbed There are no known records of occurrence within 6 miles of the project area.
Lemmon's jewelflower	*Caulanthus coulteri* var. *lemmonii*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-May	Valley and foothill grassland.	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.
Congdon's tarplant	*Centromadia parryi* ssp. *congdonii*	CNPS 1B, ECCHCP: No; EACCS: Yes	May-Oct (Nov)	Valley and foothill grassland (alkaline).	Low; project area dominated by nonnative annual grasses and forbs. Closest occurrence is 5.5 miles from the project area.
Hispid bird's-beak	*Cordylanthus mollis* ssp. *hispidus*	CNPS 1B, ECCHCP: No; EACCS: No	Jun-Sep	Meadows and seeps, playas, valley and foothill grassland/alkaline.	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.
Palmate-bracted bird's-beak	*Cordylanthus palmatus*	FE, CE, CNPS 1B, ECCHCP: No; EACCS: Yes	May-Oct	Chenopod scrub, valley and foothill grassland/alkaline.	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.
Livermore tarplant	*Deinandra bacigalupi*	CNPS 1B, ECCHCP: No; EACCS: Yes	Jun-Oct	Meadows and seeps (alkaline).	Low; potentially suitable habitat in project area is disturbed. There are no known records of occurrence within 6 miles of the project area.

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Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
Hospital Canyon larkspur	*Delphinium californicum* ssp. *interius*	CNPS 1B, ECCHCP: No; EACCS: No	Apr-Jun	Chaparral (openings), cismontane woodland (mesic).	None; chaparral habitat does not occur in the project area. There are no known records of occurrence within 6 miles of the project area.
Recurved larkspur	*Delphinium recurvatum*	CNPS 1B, ECCHCP: No; EACCS: Yes	Mar-Jun	Chenopod scrub, cismontane woodland, valley and foothill grassland/alkaline.	Low; potentially suitable habitat in project area. Occurrences within 1 mile of the project area.
Delta button-celery	*Eryngium racemosum*	CE, CNPS 1B, ECCHCP: No; EACCS: No	Jun-Sep	Riparian scrub (vernally mesic clay depressions).	None; riparian habitat does not occur in the project area. There are no known records of occurrence within 6 miles of the project area.
Diamond-petaled California poppy	*Eschscholzia rhombipetala*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Apr	Valley and foothill grassland (alkaline).	Low; project area dominated by nonnative annual grasses and forbs. Occurrences within 3 miles of the project area.
Stinkbells	*Fritillaria agrestis*	CNPS 4.2, ECCHCP: No; EACCS: No	Mar-Jun	Chaparral, Cismontane woodland, Pinyon and juniper woodland, Valley and foothill grassland/clay, sometimes serpentine.	Low; project area dominated by nonnative annual grasses and forbs. Closest occurrence is approximately 6 miles from project area.
Diablo helianthella	*Helianthella castanea*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Chaparral, cismontane woodland, riparian woodland, valley and foothill grassland.	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.
Woolly rose-mallow	*Hibiscus lasiocarpus*	CNPS 2, ECCHCP: No; EACCS: No	Jun-Sep	Marshes and swamps (freshwater).	Low; potentially suitable habitat in project area is disturbed. CNDDB occurrence is approximately 3.2 miles from the project area.
Contra Costa goldfields	*Lasthenia conjugens*	FE, CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Cismontane woodland, playas (alkaline), valley and foothill grassland, vernal pools.	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.

ATTACHMENT 2
Comprehensive List of Special-status Species Potentially Occurring in the BBID Tracy Hills Raw Water Supply Project

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
Delta tule pea	*Lathyrus jepsonii* var. *jepsonii*	CNPS 1B, ECCHCP: No; EACCS: No	May-Jul (Sept)	Marshes and swamps (freshwater and brackish).	None; this species generally associated with Delta water bodies (i.e., sloughs). There are no known records of occurrence within 6 miles of the project area.
Mason's lilaeopsis	*Lilaeopsis masonii*	CR, CNPS 1B, ECCHCP: No; EACCS: No	Apr-Nov	Marshes and swamps (brackish or freshwater), riparian scrub.	None; this species generally associated with Delta water bodies (i.e., sloughs). Occurrences within 2.5 miles of the project area.
Delta mudwort	*Limosella subulata*	CNPS 2, ECCHCP: No; EACCS: No	May-Aug	Marshes and swamps.	None; this species generally associated with Delta water bodies (i.e., sloughs). Occurrences within 5.5 miles of the project area.
Showy golden madia	*Madia radiata*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-May	Cismontane woodland, valley and foothill grassland.	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.
Little mousetail	*Myosurus minimus* ssp. *apus*	CNPS 2, ECCHCP: No; EACCS: No	Mar-Jun	Valley and foothill grassland, vernal pools (alkaline).	Low; project area dominated by nonnative annual grasses and forbs. There are no known records of occurrence within 6 miles of the project area.
Hairless popcorn-flower	*Plagiobothrys glaber*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-May	Meadows and seeps (alkaline).	
Marsh skullcap	*Scutellaria galericulata*	CNPS 2, ECCHCP: No; EACCS: No	Jun-Sep	Meadows and seeps (mesic), marshes and swamps.	Low; potentially suitable habitat in project area is disturbed. This species generally associated with Delta water bodies (i.e., sloughs). There are no known records of occurrence within 6 miles of the project area.
Chaparral ragwort	*Senecio aphanactis*	CNPS 2, ECCHCP: No; EACCS: No	Jan-Apr	Chaparral, cismontane woodland, coastal scrub, sometimes alkaline.	None; suitable habitat does not occur in the project area. Closest occurrence is approximately 4.5 miles from project area.

ATTACHMENT 2
Comprehensive List of Special-status Species Potentially Occurring in the BBID Tracy Hills Raw Water Supply Project

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
Suisun Marsh aster	*Symphyotrichum lentum*	CNPS 1B, ECCHCP: No; EACCS: No	May-Nov	Marshes and swamps (brackish and freshwater).	None; this species generally associated with Delta water bodies (i.e., sloughs). There are no known records of occurrence within 6 miles of the project area.
Saline clover	*Trifolium depauperatum* var. *hydrophilum*	CNPS 1B, ECCHCP: No; EACCS: No	Apr-Jun	Marshes and swamps, valley and foothill grassland (mesic, alkaline), vernal pools.	Low; potentially suitable habitat in project area There are no known records of occurrence within 6 miles of the project area.
Caper-fruited tropidocarpum	*Tropidocarpum capparideum*	CNPS 1B ECCHCP: No; EACCS: No	Mar-Apr	Valley and foothill grassland (alkaline hills).	Low; project area dominated by nonnative annual grasses and forbs. Occurrences with 1.25 miles of project area.
Insects and Crustaceans					
Mid-valley fairy shrimp	*Branchinecta mesovallensis*	None, ECCHCP: Yes; EACCS: No	RES	Shallow vernal pools, swales and various artificial ephemeral wetland habitats.	None; project area is located on edge of this species range, but suitable habitat is not present. Closest occurrence is approximately 2 miles from the project area.
Conservancy fairy shrimp	*Branchinecta conservatio*	FE, ECCHCP: No; EACCS: No	RES	Large, cool-water vernal pools with moderately turbid water.	None; large playa pools do not occur in the project area There are no known records of occurrence within 6 miles of the project area.
Longhorn fairy shrimp	*Branchinecta longiantenna*	FE, ECCHCP: Yes; EACCS: Yes	RES	Vernal pools, seasonally ponded areas within vernal swales, and ephemeral freshwater habitats.	None; no suitable habitat. Occurrences within 5.5 miles of the project area.
Vernal pool fairy shrimp	*Branchinecta lynchi*	FT, ECCHCP: Yes; EACCS: Yes	RES	Vernal pools, ephemeral alkali pools, seasonal drainages, stock ponds, vernal swales and rock outcrops.	None; no suitable habitat onsite. Occurrence within 2.6 miles of the project area.
Vernal pool tadpole shrimp	*Lepidurus packardi*	FE, ECCHCP: Yes; EACCS: No	RES	Vernal pool wetland ecosystems.	None; no suitable habitat. There are no known records of occurrence within 6 miles of the project area.

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Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
Valley elderberry longhorn beetle	*Desmocerus californicus dimorphus*	FT, ECCHCP: No; EACCS: No	RES	The species is nearly always found on or close to its host plant, elderberry.	None; the elderberry host plant does not occur in the project area. There are no known records of occurrence within 6 miles of the project area.
Amphibians					
California tiger salamander, central population	*Ambystoma californiense*	FT, CSC, ECCHCP: Yes; EACCS: Yes	RES	Grassland, oak savanna, and edges of mixed woodlands. Breeding: vernal pools, temporary rainwater ponds, permanent human-made ponds if predatory fishes are absent.	High; potentially suitable aestivation and dispersal habitat in project area. CNDDB occurrences within 0.75 mile of project area.
Western spadefoot toad	*Spea hammondii*	CSC, ECCHCP: No; EACCS: Yes	RES	Open areas with sandy or gravelly soils, in mixed woodlands, grasslands; rain pools that do not contain bullfrogs, fish, or crayfish are necessary for breeding.	Low; no suitable breeding habitat is present. There are no known records of occurrence within 6 miles of the project area.
California red-legged frog	*Rana draytonii*	FT, CSC, ECCHCP: Yes; EACCS: Yes	RES	Grasslands and streamsides with plant cover; permanent water sources: lakes, ponds, reservoirs, slow streams, marshes, bogs, and swamps.	High; suitable breeding, aestivation, and dispersal habitat in project area. CNDDB occurrences within 0.5 mile of project area.
Foothill yellow-legged frog	*Rana boyii*	CSC, ECCHCP: Yes; EACCS: Yes	RES	Frequents shallow, slow, gravelly streams and rivers with sunny banks, in forests, chaparral, woodlands. Sea level to 6,700 feet.	None; no suitable habitat. There are no known records of occurrence within 6 miles of the project area.
Reptiles					
San Joaquin coachwhip	*Masticophis flagellum ruddocki*	CSC, ECCHCP: No; EACCS: Yes	RES	Open, dry, treeless areas, including grassland and saltbush scrub. Takes refuge in rodent burrows, under vegetation and surface objects.	Low; potential habitat lacking shrubs in the project area. Occurrence within 5 miles of the project area.
Alameda whipsnake	*Masticophis lateralis euryxanthus*	FT, CT, ECCHCP: Yes; EACCS: Yes	RES	Open areas in canyons, rocky hillsides, chaparral scrublands, open woodlands, pond edges, and stream courses.	None; no suitable chaparral habitat. There are no known records of occurrence within 6 miles of the project area.
Giant garter snake	*Thamnophis gigas*	FT, CT, ECCHCP: Yes; EACCS: Yes	RES	Marshes, sloughs, drainage canals, and irrigation ditches, especially around rice fields, and occasionally in slow-moving creeks.	Low; potential habitat is marginal within the project site. There are no known records of occurrence within 6 miles of the project area.

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Comprehensive List of Special-status Species Potentially Occurring in the BBID Tracy Hills Raw Water Supply Project

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
Silvery legless lizard	*Anniella pulchra pulchra*	CSC, ECCHCP: Yes; EACCS: Yes	RES	Occurs in moist warm loose soil with plant cover. Occurs in sparsely vegetated areas.	Low; loose friable soils suitable for this species lacking in project area, There are no known records of occurrence within 6 miles of the project area.
California coast horned lizard	*Phrynosoma coronatum (frontale population)*	CSC, ECCHCP: No; EACCS: Yes	RES	Grasslands, woodlands, and chaparral, with open areas and patches of loose soil; and frequently found near ant hills.	Low; ant prey base not observed during site surveys. Occurrences within 4 miles of the project area.
Western pond turtle	*Actinemys marmorata*	CSC, ECCHCP: Yes; EACCS: Yes	RES	Ponds, lakes, rivers, streams, creeks, marshes, and irrigation ditches with abundant vegetation.	Detected; dead pond turtle found onsite. CNDDB occurrences within 1 mile of project site. Suitable breeding pond located in the project area and along the water supply corridor.
Birds					
Tricolored blackbird	*Agelaius tricolor*	CSC, ECCHCP: Yes; EACCS: Yes	RES (primarily)	Near open accessible water with dense emergent vegetation (e.g., cattails).	None; Site lacks breeding habitat. Closest occurrence is within 1.3 miles of the project site.
Golden eagle	*Aquila chrysaetos*	BGPA, CFP, ECCHCP: Yes; EACCS: Yes	RES (primarily)	Open grasslands and savannahs; nests on cliffs of all heights and in large trees in open areas.	Low; suitable breeding habitat not present in project area. Occurrences within 5 miles of the project area.
Loggerhead shrike	*Lanius ludovicianus*	CSC, ECCHCP: No; EACCS: Yes	RES (primarily)	Open habitats with scattered shrubs, trees, posts, fences, utility lines, or other perches.	Detected; during September 2009 site visits; foraging habitat only, because no trees or shrubs will be impacted during construction.
Western burrowing owl	*Athene cunicularia*	CSC, ECCHCP: Yes; EACCS: Yes	RES (may WNTR to South)	Open, dry grassland. Usually nests in old burrow of ground squirrel, or other small mammal.	Moderate; Suitable breeding and foraging habitat in project area. Occurs within 0.75 mile of the project area.
Short-eared owl	*Asio flammeus*	CSC, ECCHCP: No; EACCS: No	WNTR	Usually found in open areas with few trees such as annual and perennial grasslands, prairies, dunes, wetlands, and irrigated lands.	Low; winter migrant to central valley and western Sierra Nevada foothills. Suitable roosting and resting habitat not present in the project area. There are no known records of occurrence within 6 miles of the project area.

ATTACHMENT 2
Comprehensive List of Special-status Species Potentially Occurring in the BBID Tracy Hills Raw Water Supply Project

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
Swainson's hawk	*Buteo swainsoni*	CT, ECCHCP: Yes; EACCS: Yes	SPR-SUM	Open riparian habitat, in scattered trees or small groves in sparsely vegetated flatlands. Usually near water in the Central Valley.	High; foraging habitat only, as no trees will be impacted during construction. Potential nest trees within 0.5 mile. Occurrences within 2.3 miles of project area.
Northern harrier	*Circus cyaneus*	CSC, ECCHCP: No; EACCS: Yes	WNTR	Flat, open areas of tall, dense grasses, moist or dry shrubs, and edges for nesting, cover, and feeding.	Moderate; suitable foraging habitat only in project area. Closest occurrence reported is approximately 3 miles from the project area.
White-tailed kite	*Elanus leucurus*	CFP, ECCHCP: No; EACCS: Yes	RES	Open grasslands, meadows, farmlands, and emergent wetlands. Groves of dense, broad-leafed deciduous trees used for nesting and roosting.	Moderate; foraging habitat only, because no trees will be impacted during construction. Occurrence within 1 mile of the project area.
Grasshopper sparrow	*Ammodramus savannarum*	CSC, ECCHCP: No; EACCS: No	SUM	Native grassland with mix of grasses and forbs for nesting and foraging.	Low; no suitable breeding habitat is present. There are no known records of occurrence within 6 miles of the project area.
Yellow-headed blackbird	*Xanthocephalus xanthocephalus*	CSC, ECCHCP: No; EACCS: No	WNTR	Dense emergent wetland of cattails, tules, and other wetland plants; often along border of lake or pond.	Low; wetland habitat along pond does not provide provides suitable breeding habitat. There are no known records of occurrence within 6 miles of the project area.
California black rail	*Laterallus jamaicensis coturniculus*	CT, FP, ECCHCP: No; EACCS: No	RES	Found in the tidal salt marshes of the northern San Francisco Bay region, primarily in San Pablo and Suisun Bays, freshwater marshes in the foothills of the Sierra Nevada, and in the Colorado River Area.	None; no suitable habitat. There are no known records of occurrence within 6 miles of the project area.
Mammals					
San Joaquin kit fox	*Vulpes macrotis mutica*	FE, CT, ECCHCP: Yes; EACCS: Yes	RES	Annual grasslands or grassy open stages of vegetation, some agricultural areas.	Moderate; CNDDB occurrences within 0.75 mile of project site. Suitable foraging habitat in project area; small mammal burrow located onsite may provide denning opportunities for this species.

ATTACHMENT 2
Comprehensive List of Special-status Species Potentially Occurring in the BBID Tracy Hills Raw Water Supply Project

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area
American badger	*Taxidea taxus*	CSC, ECCHCP: No; EACCS: Yes	RES	Friable soils and relatively open, uncultivated ground, grasslands, and savannas.	Moderate; suitable foraging habitat in project area; small mammal burrow located onsite may provide denning opportunities for this species. CNDDB occurrences within 0.75 mile of project area.
Pallid bat	*Antrozous pallidus*	CSC, ECCHCP: Yes; EACCS: Yes	RES	Shrub-steppe grasslands; day roosts in caves, crevices, mines, and occasionally in hollow trees, and buildings.	Low; suitable roosting habitat lacking in project area; may disperse through the project area. There are no known records of occurrence within 6 miles of the project area.
Western mastiff bat	*Eumpos perotis californicus*	CSC, ECCHCP: No; EACCS: Yes	RES	Broad open areas; chaparral, oak woodland, grassland, and agricultural areas; primarily cliff-dwelling; building roosts.	Low; suitable roosting habitat lacking in project area; may disperse through the project area. There are no known records of occurrence within 6 miles of the project area.
Fish					
Green sturgeon	*Acipenser medirostris*	FT/CSC, ECCHCP: No; EACCS: No	Feb-Jun	Freshwater and saltwater habitats including deep pools in freshwater rivers, oceanic waters, bays, and estuaries.	None; no suitable habitat in the study area.
Delta smelt	*Hypomesus transpacificus*	FT, CT, ECCHCP: No; EACCS: No	May	The historic range of the delta smelt extended from Suisun Bay upstream to at least the city of Sacramento on the Sacramento River and Mossdale on the San Joaquin River.	None; no suitable habitat in the study area.
Central Valley steelhead	*Oncorhynchus mykiss*	FT, ECCHCP: No; EACCS: Yes	Jul-Apr	Found in tributaries to the San Francisco Bay, including the South Bay. Pass through the San Francisco Estuary during migration to streams for spawning, and during outmigration to the ocean. Spawns in small streams and tributaries with cold, clean water flowing over graveled bottoms and deep pools.	None; no suitable habitat in the study area.

ATTACHMENT 2

Comprehensive List of Special-status Species Potentially Occurring in the BBID Tracy Hills Raw Water Supply Project

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Potential Occurrence in[d] Project Area

[a]**Status.**

Federal Status
FE = federally listed as endangered
FT = federally listed as threatened
FD = federally delisted
BGPA = Bald and Golden Eagle Protection Act
BCC = bird of conservation concern

State Status
CE = state listed as endangered
CT = state listed as threatened
CFP = state fully protected
CR = state rare
CSC = state species of concern
CWL = watch list species

California Native Plant Society (CNPS) Status
1A = plants presumed extinct in California
1B = plants rare, threatened, or endangered in California, but more common elsewhere
2 = plants rare, threatened, or endangered in California, but more common elsewhere

East Contra Costa Habitat Conservation Plan (ECCHCP), East Alameda County Conservation Strategy (EACCS)
Yes = covered species
No = not a covered species

[b]**Season**. Blooming period for plants. Season of use for animals: RES = resident; SUMR = summer; WNTR = winter.

[c]**Primary Habitat.** Most likely habitat association.

[d]**Potential Occurance in Project Area.** Distances based on CNDDB point data and the center of for polygon data.

Sources:

California Department of Fish and Game (Clifton Court Forebay, Brentwood, Woodward Island, Holt, Union Island, Tracy, Midway, Altamont, and Byron Hot Springs Quads searched).

Natural Diversity Database Program “Rarefind” California Natural Diversity Database. The Resources Agency, Sacramento.

California Native Plant Society. 2008. *Inventory of Rare and Endangered Plants* (online 7th edition).

Note:

CNDDB = California Natural Diversity Database

Attachment 3
Survey Guidelines

Species	Status	Potential for Species to be Located Near Proposed Project	Distance From Habitat Triggering Potential Impact	Protocol Survey Required (if determined potentially present)	Survey Timing	Allowable Construction Window	Published Avoidance and Minimization Measures	Comments
Giant Garter Snake *Thamnophis gigas*	FT/CT	Yes	200 feet[a] from suitable aquatic habitat	See comments	Surveys are required 24 hours prior to construction activities.	May 1 – Oct 1[a]	Yes	No protocol surveys are required but consultation and documentation of species specific criteria must be addressed prior to initiating construction. 24 hours prior to construction activities, the project area should be surveyed for giant garter snakes. Survey of the project area should be repeated if a lapse in construction activity of 2 weeks or greater has occurred. Any dewatered habitat should remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling of the dewatered habitat. Projects that exceed the habitat impact threshold will require individual BOs. See programmatic consultation guidelines for thresholds. The USFWS will re-evaluate this programmatic consultation annually to ensure that its continued application will not result in unacceptable effects on the giant garter snake or its habitat. Restricting this programmatic consultation to projects with permanent impacts of less than 3 acres (1.21 hectares) and temporary impacts of less than 20 acres (8.09 hectares) of giant garter snake habitat per project.
Western Pond Turtle *Emys (= Clemmys) marmorata*	--/CSC	Yes	300 feet from known nest	No protocol	Conducted during reconnaissance survey	All year	No	
Swainson's Hawk *Buteo swainsoni*	MBTA/CT	Yes	0.50 mile[a] from project extent	Yes	March 1 – August 31 (five survey windows; timing for surveys varies [see comments]). Surveys occur within same year as proposed project construction.	All year if outside 0.5-mile buffer or if encroachment into this buffer is approved in concert with CDFG.	Yes	Surveys must include 0.5 mile radius around project site. Surveys should be conducted in the spring breeding season prior to proposed project related activities. There are five survey windows outlined in the protocol: (1) Optional (Jan – March 20), (2) (March 20 – April 5), (3) (April 5 – April 20), (4) April 21 – June 10 (monitoring known sites [initiating surveys not recommended]), and (5) June 10 – July 30 (post fledging).
San Joaquin Kit Fox *Vulpes macrotis mutica*	FE/CT	Possible	Potential den – 50 feet Known den – 100 feet Natal or pupping den – to be determined on a case-by-case basis in coordination with USFWS and DFG Atypical den – 50 feet	Yes	Site assessment, protocol survey window May 1 – November 1 preconstruction surveys; see comments. Surveys will be conducted within same year as proposed project construction.	All year if dens are not impacted.	Yes	Early site evaluation required during reconnaissance surveys for site assessment. See survey protocol guidelines. Preconstruction/activity surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any project activity likely to impact the San Joaquin kit fox. Surveys should identify kit fox habitat features on the project site and evaluate use by kit fox and, if possible, assess the potential impacts to the kit fox by the proposed activity. The status of all dens should be determined and mapped (see survey protocol).

Species	Status	Potential for Species to be Located Near Proposed Project	Distance From Habitat Triggering Potential Impact	Protocol Survey Required (if determined potentially present)	Survey Timing	Allowable Construction Window	Published Avoidance and Minimization Measures	Comments
Burrowing Owl *Athene cunicularia*	MBTA/CSC	Yes	160 feet during the non-nesting season 250 feet during the nesting season	Yes	Habitat assessment, breeding surveys should be conducted from April 15 – July 15. Winter surveys December 1 – January 31 within same year as proposed project construction.	All year if outside of breeding/nesting locations; see distance from habitat.	Yes	Pre-construction surveys required.
California Tiger Salamander *Ambystoma californiense*	FT/CSC	Yes	1.24 – 2 miles from potential breeding habitat	Yes	2-year survey period October 15 – May 30.	As determined in the BO.	Determined by agencies	Site assessment to determine the potential for species to occur including CNDDB occurrences within 3.1 miles of project site. Dispersal and upland habitat from 1.24 to 2 miles from project-related activities. Send report to USFWS and DFS and proceed with their recommendations. Protocol surveys should be conducted from October 15 – May 30.
California Red-legged frog *Rana aurora draytonii*	FT/CSC	Yes	1 mile from potential breeding habitat	Yes	Site assessment; protocol window January – September Best time January 1 – Feb 28 Protocol during the wet season prior to proposed project construction.	As determined in the BO.	No	
Longhorn fairy shrimp *Branchinecta longiantenna*	FE/--	Yes	250 feet from vernal pools or occupied aquatic habitat	Yes	Two wet seasons within 5 years or one wet season and one dry season survey.	As determined in the BO	Yes	
Vernal pool fairy shrimp *Branchinecta lynchi*	FT/--	Yes	250 feet from vernal pools or occupied aquatic habitat	Yes	Two wet seasons within 5 years or one wet season and one dry season survey.	As determined in the BO.	250 feet	
Valley elderberry longhorn beetle *Desmocerus californicus dimorphus*	FT/--	Yes	100 feet[a] from edge of dripline.	Yes	Any time.	All year.	Requires 100-foot[a] buffer from project-related activities	100-foot buffer can be reduced with consultation from USFWS.
American Badger *Taxidea taxus*	--/CSC	yes	No published data	No	Included in kit fox surveys.	All year.	No	Denning surveys completed with kit fox surveys in advance of project related activities.

[a]Qualified biologist might be able to reduce buffer if activities do not cause stress to species; approval from California Fish and Game and U.S. Fish and Wildlife Service required.

Notes:
BO = Biological Opinion
CE = State-listed Endangered Species
CNPS 1A = Plants presumed extinct in California
CNPS 1B = Plant species considered rare, threatened, or endangered in California and elsewhere
CNPS 2 = Plant species considered rare, threatened, or endangered in California, but more common elsewhere
CT = State-listed Threatened Species
CSC = Species of Special Concern
DFG = Department of Fish and Game
FT = Federally listed Threatened Species
FE = Federally listed Endangered Species
MBTA = Migratory Bird Treaty Act
USFWS = U.S. Fish and Wildlife Service

Appendix B
URBEMIS Version 9.2.4 Modeling Results

2/10/2011 10:30:39 AM

Urbemis 2007 Version 9.2.4

Summary Report for Annual Emissions (Tons/Year)

File Name: C:\Projects\BBID\BBID.urb924
Project Name: BBID - Tracy Hills Water Supply Project
Project Location: Bay Area Air District
On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006
Off-Road Vehicle Emissions Based on: OFFROAD2007

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
2011 TOTALS (tons/year unmitigated)	0.15	1.26	0.63	0.00	0.03	0.06	0.09	0.01	0.06	0.06	153.62

1/28/2011 11:51:35 AM

Urbemis 2007 Version 9.2.4

Detail Report for Summer Construction Unmitigated Emissions (Pounds/Day)

File Name: C:\Documents and Settings\bbeattie.CH2MHILL\Desktop\BBID\BBID.urb924

Project Name: BBID - Tracy Hills Water Supply Project

Project Location: Bay Area Air District

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

CONSTRUCTION EMISSION ESTIMATES (Summer Pounds Per Day, Unmitigated)

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10 Total	PM2.5 Dust	PM2.5 Exhaust	PM2.5 Total	CO2
Time Slice 2/1/2011-2/28/2011 Active Days: 20	3.04	25.13	12.05	**0.00**	**3.11**	1.18	**4.28**	**0.65**	1.08	**1.73**	3,075.66
Mass Grading 02/01/2011-02/28/2011	3.04	25.13	12.05	0.00	3.11	1.18	4.28	0.65	1.08	1.73	3,075.66
Mass Grading Dust	0.00	0.00	0.00	0.00	3.10	0.00	3.10	0.65	0.00	0.65	0.00
Mass Grading Off-Road Diesel	3.00	25.05	10.71	0.00	0.00	1.17	1.17	0.00	1.08	1.08	2,948.19
Mass Grading On-Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Mass Grading Worker Trips	0.04	0.07	1.34	0.00	0.01	0.00	0.01	0.00	0.00	0.00	127.47
Time Slice 3/1/2011-4/29/2011 Active Days: 44	**3.80**	**32.32**	**14.84**	**0.00**	0.01	**1.49**	1.49	0.00	**1.37**	1.37	**3,856.05**
Building 03/01/2011-04/30/2011	0.70	6.77	2.51	0.00	0.00	0.27	0.27	0.00	0.25	0.25	739.46
Building Off-Road Diesel	0.70	6.77	2.51	0.00	0.00	0.27	0.27	0.00	0.25	0.25	739.46
Building Vendor Trips	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Building Worker Trips	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Trenching 03/01/2011-06/30/2011	3.11	25.55	12.33	0.00	0.01	1.21	1.22	0.00	1.12	1.12	3,116.59
Trenching Off-Road Diesel	3.06	25.47	10.99	0.00	0.00	1.21	1.21	0.00	1.11	1.11	2,989.12
Trenching Worker Trips	0.04	0.07	1.34	0.00	0.01	0.00	0.01	0.00	0.00	0.00	127.47
Time Slice 5/2/2011-6/30/2011 Active Days: 44	3.11	25.55	12.33	**0.00**	0.01	1.21	1.22	0.00	1.12	1.12	3,116.59
Trenching 03/01/2011-06/30/2011	3.11	25.55	12.33	0.00	0.01	1.21	1.22	0.00	1.12	1.12	3,116.59
Trenching Off-Road Diesel	3.06	25.47	10.99	0.00	0.00	1.21	1.21	0.00	1.11	1.11	2,989.12
Trenching Worker Trips	0.04	0.07	1.34	0.00	0.01	0.00	0.01	0.00	0.00	0.00	127.47

Phase Assumptions

Phase: Mass Grading 2/1/2011 - 2/28/2011 - Site Stabilization/Clearing and Grubbing
Total Acres Disturbed: 6.91
Maximum Daily Acreage Disturbed: 0.31
Fugitive Dust Level of Detail: Default
  10 lbs per acre-day
On Road Truck Travel (VMT): 0
Off-Road Equipment:
1 Excavators (168 hp) operating at a 0.57 load factor for 8 hours per day
1 Off Highway Trucks (479 hp) operating at a 0.57 load factor for 8 hours per day
1 Plate Compactors (8 hp) operating at a 0.43 load factor for 8 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day
1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Trenching 3/1/2011 - 6/30/2011 - Pipeline Construction
Off-Road Equipment:
1 Excavators (168 hp) operating at a 0.57 load factor for 8 hours per day
1 Off-Highway Trucks (479 hp) operating at a 0.57 load factor for 8 hours per day
1 Plate Compactors (8 hp) operating at a 0.43 load factor for 8 hours per day
1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day
1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Building Construction 3/1/2011 - 4/30/2011 - Pump Station Construction
Off-Road Equipment:
1 Cranes (399 hp) operating at a 0.43 load factor for 8 hours per day

Road Emission Factors:

Exhaust Emission Factors

Vehicle	Vehicle Type in EMFAC2007	2011 Emission Factors (lb/mile)						
		ROG	CO	NOx	SOx	PM10	PM2.5	CO2
Work Trucks (unpaved roads)	Light-Duty Truck, Gasoline	0.0007	0.0119	0.0012	0.00002	0.0002	0.0001	1.9507
Employee Commute Paved Road	Passenger Vehicles, Gasoline	0.0001	0.0043	0.0004	0.00001	0.0000	0.00002	0.6320
Vehicle	**Vehicle Type in EMFAC2007**	**2011 Emission Factors (g/mile)**						
		ROG	**CO**	**NOx**	**SOx**	**PM10**	**PM2.5**	**CO2**
Work Trucks (unpaved roads)	Light-Duty Truck, Gasoline	0.334	5.38	0.523	0.009	0.1	0.07	884.86
Employee Commute	Passenger Vehicles, Gasoline	0.052	1.956	0.182	0.003	0.009	0.008	286.666

Note:
EFs from the California Air Resources Board's EMFAC 2007 model for Kern County. It was assumed that vehicles would travel at 10 mph on unpaved roads, and 45 mph on paved roads.

Construction Emission Summary

Emission Source	Emissions (lb/day)						Emissions (tons/yr)					
	ROG	CO	NOx	SOx	PM10	PM2.5	ROG	CO	NOx	SOx	PM10	PM2.5
Onsite Equipment	3.8	14.8	32.3	0.0012	4.28	1.73	0.2	0.6	1.3	0.0001	0.09	0.06
Offsite Vehicles	0.028	1.03	0.096	0.0016	0.005	0.004	0.002	0.062	0.006	0.000	0.000	0.000
TOTAL	3.8	15.9	32.4	0.0028	4.3	1.7	0.2	0.7	1.3	0.0001	0.1	0.1
BAAQMD Thresholds (lb/day)	54	NE	54	NE	82	54						
Threshold Exceeded?	No	NA	No	NA	No	No						

Notes:

BAAQMD thresholds for PM10 and PM2.5 refer to exhaust emissions only. The BAAQMD Basic Construction Mitigation Measures Recommended for All Proposed Projects will be implemented (BAAQMD, CEQA Guidelines, 2010).
NA = Not applicable
NE = Threshold has not been established

Worker Commute Trips				Emissions (lb/day)					
Construction Phase	# of Workers	Months of Work	Miles Traveled per Round Trip	ROG	CO	NOx	SOx	PM10	PM2.5
Pump Station	6	7	20	0.014	0.52	0.048	0.0008	0.002	0.002
Pipeline	5	3	20	0.011	0.43	0.040	0.0007	0.002	0.002
Supervisor	1	8	20	0.0023	0.086	0.0080	0.0001	0.0004	0.0004

Notes:
Round trip mileage represents the distance from the construction site to the nearest city, in this case Tracy, CA.
Emissions are based on the assumption that workers will commute to the site 22 days per month
Maximum daily emissions occur during months 2 and 3 of the construction schedule, during both pipeline and pumphouse.

Appendix C
Comprehensive List of Special-status Species

Appendix C
Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Plants					
Large-flowered fiddleneck	*Amsinckia grandiflora*	FE, CE, CNPS 1B, ECCHCP: No; EACCS: No	Apr-May	Perennial bunchgrass habitat in cismontane woodland, valley and foothill grassland.	None; Proposed Project area dominated by non-native annual grasses and forbs. Species only occurs in perennial bunchgrass habitat. There are no known records of occurrence within 6 miles of the Proposed Project area.
Bent-flowered fiddleneck	*Amsinckia lunaris*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Coastal bluff scrub, cismontane woodland, valley and foothill grassland.	Low; Proposed Project area dominated by non-native annual grasses and forbs. Occurs approximately 5 miles from the Proposed Project area.
Alkali milk-vetch	*Astragalus tener* var. *tener*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Playas, valley and foothill grassland, vernal pools/alkaline.	None; alkaline wetland areas lacking in Proposed Project area. Records from approximately 3 miles from Proposed Project area.
Heartscale	*Atriplex cordulata*	CNPS 1B, ECCHCP: No; EACCS: No	Apr-Oct	Chenopod scrub, meadows and seeps, valley and foothill grassland.	Moderate; there are no known records of occurrence in the Proposed Project area, but potential alkaline conditions exist along segments of Proposed Project linears.
Brittlescale	*Atriplex depressa*	CNPS 1B, ECCHCP: Yes; EACCS: No	Apr-Oct	Chenopod scrub, meadows and seeps, playas, valley and foothill grassland, vernal pools.	Moderate; potential alkaline conditions exist along segments of Proposed Project linears. Occurrences within 3 miles of the Proposed Project area.

Appendix C
Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
San Joaquin spearscale	*Atriplex joaquiniana*	CNPS 1B, ECCHCP: Yes; EACCS: Yes	Apr-Oct	Chenopod scrub, meadows and seeps, playas, valley and foothill grassland/alkaline.	Moderate; potential alkaline conditions exist along segments of Proposed Project linears. Occurs within approximately 1.3 miles of Proposed Project area.
Big-scale balsamroot	*Balsamorhiza macrolepis* var. *macrolepis*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Chaparral, cismontane woodland, valley and foothill grassland.	Low; Proposed Project area dominated by non-native annual grasses and forbs. There are no known records of occurrence within 6 miles of the Proposed Project area.
Big tarplant	*Blepharizonia plumosa*	CNPS 1B, ECCHCP: Yes; EACCS: Yes	Jul-Oct	Valley and foothill grassland.	Low; Proposed Project area dominated by non-native annual grasses and forbs. Occurs approximately 5 miles from the Proposed Project area.
Round-leaved filaree	*California macrophylla*	CNPS 1B, ECCHCP: Yes; EACCS: No	Mar-May	Cismontane woodland, valley and foothill grassland.	Low; Proposed Project area dominated by non-native annual grasses and forbs. Occurrences within 2.5 miles of the Proposed Project area.
Bristly sedge	*Carex comosa*	CNPS 2, ECCHCP: No; EACCS: No	May-Sep	Coastal prairie, marshes and swamps (lake margins), valley and foothill grassland (edge of water).	None; no suitable habitat in Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.

Appendix C
Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Brown fox sedge	*Carex vulpinoidea*	CNPS 2, ECCHCP: No; EACCS: No	May-Jun	Marshes and swamps (freshwater), riparian woodland (near water).	None; no suitable habitat. There are no known records of occurrence within 6 miles of the Proposed Project area.
Lemmon's jewelflower	*Caulanthus coulteri* var. *lemmonii*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-May	Valley and foothill grassland.	Low; Proposed Project area dominated by non-native annual grasses and forbs. There are no known records of occurrence within 6 miles of the Proposed Project area.
Congdon's tarplant	*Centromadia parryi* ssp. *congdonii*	CNPS 1B, ECCHCP: No; EACCS: Yes	May-Oct (Nov)	Valley and foothill grassland (alkaline).	Low; Proposed Project area dominated by non-native annual grasses and forbs. Closest occurrence is 5.5 miles from the Proposed Project area.
Hispid bird's-beak	*Cordylanthus mollis* ssp. *hispidus*	CNPS 1B, ECCHCP: No; EACCS: No	Jun-Sep	Alkaline and saline soils of marshes and playas.	None; No suitable habitat in Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.
Palmate-bracted bird's-beak	*Cordylanthus palmatus*	FE, CE, CNPS 1B, ECCHCP: No; EACCS: Yes	May-Oct	Chenopod scrub, valley and foothill grassland/seasonally-flooded, saline-alkali soils.	None; Proposed Project area dominated by non-native annual grasses and forbs. Species is limited to seasonally-flooded, saline-alkali soils. There are no known records of occurrence within 6 miles of the Proposed Project area.

Appendix C
Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Livermore tarplant	*Deinandra bacigalupi*	CNPS 1B, ECCHCP: No; EACCS: Yes	Jun-Oct	Meadows and seeps (alkaline).	Low; potentially suitable habitat in Proposed Project area is disturbed. There are no known records of occurrence within 6 miles of the Proposed Project area.
Hospital Canyon larkspur	*Delphinium californicum* ssp. *interius*	CNPS 1B, ECCHCP: No; EACCS: No	Apr-Jun	Chaparral (openings), cismontane woodland (mesic).	None; chaparral habitat does not occur in the Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.
Recurved larkspur	*Delphinium recurvatum*	CNPS 1B, ECCHCP: No; EACCS: Yes	Mar-Jun	Chenopod scrub, cismontane woodland, valley and foothill grassland/alkaline.	Low; potentially suitable habitat in Proposed Project area. Occurrences within 1 mile of the Proposed Project area.
Delta button-celery	*Eryngium racemosum*	CE, CNPS 1B, ECCHCP: No; EACCS: No	Jun-Sep	Riparian scrub (vernally mesic clay depressions).	None; riparian habitat does not occur in the Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.
Diamond-petaled California poppy	*Eschscholzia rhombipetala*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Apr	Valley and foothill grassland (alkaline).	Low; Proposed Project area dominated by non-native annual grasses and forbs. Occurrences within 3 miles of the Proposed Project area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Stinkbells	*Fritillaria agrestis*	CNPS 4.2, ECCHCP: No; EACCS: No	Mar-Jun	Chaparral, Cismontane woodland, Pinyon and juniper woodland, Valley and foothill grassland/clay, sometimes serpentine.	Low; Proposed Project area dominated by non-native annual grasses and forbs. Closest occurrence is approximately 6 miles from Proposed Project area.
Diablo helianthella	*Helianthella castanea*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Chaparral, cismontane woodland, riparian woodland, valley and foothill grassland.	Low; Proposed Project area dominated by non-native annual grasses and forbs. There are no known records of occurrence within 6 miles of the Proposed Project area.
Woolly rose-mallow	*Hibiscus lasiocarpus*	CNPS 2, ECCHCP: No; EACCS: No	Jun-Sep	Marshes and swamps (freshwater).	None; no suitable habitat in Proposed Project area. CNDDB occurrence is approximately 3.2 miles from the Proposed Project area.
Contra Costa goldfields	*Lasthenia conjugens*	FE, CNPS 1B, ECCHCP: No; EACCS: No	Mar-Jun	Cismontane woodland, playas (alkaline), valley and foothill grassland, vernal pools.	None; no suitable habitat in Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.
Delta tule pea	*Lathyrus jepsonii* var. *jepsonii*	CNPS 1B, ECCHCP: No; EACCS: No	May-Jul (Sept)	Marshes and swamps (freshwater and brackish).	None; this species generally associated with Delta water bodies (i.e., sloughs). There are no known records of occurrence within 6 miles of the Proposed Project area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Mason's lilaeopsis	*Lilaeopsis masonii*	CR, CNPS 1B, ECCHCP: No; EACCS: No	Apr-Nov	Marshes and swamps (brackish or freshwater), riparian scrub.	None; this species generally associated with Delta water bodies (i.e., sloughs). Occurrences within 2.5 miles of the Proposed Project area.
Delta mudwort	*Limosella subulata*	CNPS 2, ECCHCP: No; EACCS: No	May-Aug	Marshes and swamps.	None; this species generally associated with Delta water bodies (i.e., sloughs). Occurrences within 5.5 miles of the Proposed Project area.
Showy golden madia	*Madia radiata*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-May	Cismontane woodland, valley and foothill grassland.	Low; Proposed Project area dominated by non-native annual grasses and forbs. There are no known records of occurrence within 6 miles of the Proposed Project area.
Little mousetail	*Myosurus minimus* ssp. *apus*	CNPS 2, ECCHCP: No; EACCS: No	Mar-Jun	Valley and foothill grassland, vernal pools (alkaline).	None; no suitable habitat in Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.
Hairless popcorn-flower	*Plagiobothrys glaber*	CNPS 1B, ECCHCP: No; EACCS: No	Mar-May	Meadows and seeps (alkaline).	None; no suitable habitat in Proposed Project area. There are no known occurrences within 6 miles of the Proposed Project area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Marsh skullcap	*Scutellaria galericulata*	CNPS 2, ECCHCP: No; EACCS: No	Jun-Sep	Meadows and seeps (mesic), marshes and swamps.	None; this species generally associated with Delta water bodies (i.e., sloughs). There are no known records of occurrence within 6 miles of the Proposed Project area.
Chaparral ragwort	*Senecio aphanactis*	CNPS 2, ECCHCP: No; EACCS: No	Jan-Apr	Chaparral, cismontane woodland, coastal scrub, sometimes alkaline.	None; suitable habitat does not occur in the Proposed Project area. Closest occurrence is approximately 4.5 miles from Proposed Project area.
Suisun Marsh aster	*Symphyotrichum lentum*	CNPS 1B, ECCHCP: No; EACCS: No	May-Nov	Marshes and swamps (brackish and freshwater).	None; this species generally associated with Delta water bodies (i.e., sloughs). There are no known records of occurrence within 6 miles of the Proposed Project area.
Saline clover	*Trifolium depauperatum* var. *hydrophilum*	CNPS 1B, ECCHCP: No; EACCS: No	Apr-Jun	Marshes and swamps, valley and foothill grassland (mesic, alkaline), vernal pools.	None; suitable habitat does not occur in the Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.
Caper-fruited tropidocarpum	*Tropidocarpum capparideum*	CNPS 1B ECCHCP: No; EACCS: No	Mar-Apr	Valley and foothill grassland (alkaline hills).	Low; Proposed Project area dominated by non-native annual grasses and forbs. Occurrences with 1.25 miles of Proposed Project area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Insects and Crustaceans					
Mid-valley fairy shrimp	*Branchinecta mesovallensis*	None, ECCHCP: Yes; EACCS: No	RES	Shallow vernal pools, swales and various artificial ephemeral wetland habitats.	None; Proposed Project area is located on edge of this species range, but suitable habitat is not present. Closest occurrence is approximately 2 miles from the Proposed Project area.
Conservancy fairy shrimp	*Branchinecta conservatio*	FE, ECCHCP: No; EACCS: No	RES	Large, cool-water vernal pools with moderately turbid water.	None; no suitable habitat. There are no known records of occurrence within 6 miles of the Proposed Project area.
Longhorn fairy shrimp	*Branchinecta longiantenna*	FE, ECCHCP: Yes; EACCS: Yes	RES	Vernal pools, seasonally ponded areas within vernal swales, and ephemeral freshwater habitats.	None; no suitable habitat. Occurrences within 5.5 miles of the Proposed Project area.
Vernal pool fairy shrimp	*Branchinecta lynchi*	FT, ECCHCP: Yes; EACCS: Yes	RES	Vernal pools, ephemeral alkali pools, seasonal drainages, stock ponds, vernal swales and rock outcrops.	None; no suitable habitat onsite. Occurrence within 2.6 miles of the Proposed Project area.
Vernal pool tadpole shrimp	*Lepidurus packardi*	FE, ECCHCP: Yes; EACCS: No	RES	Vernal pool wetland ecosystems.	None; no suitable habitat. There are no known records of occurrence within 6 miles of the Proposed Project area.
Valley elderberry longhorn beetle	*Desmocerus californicus dimorphus*	FT, ECCHCP: No; EACCS: No	RES	The species is nearly always found on or close to its host plant, elderberry.	None; the elderberry host plant does not occur in the Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Amphibians					
California tiger salamander, central population	*Ambystoma californiense*	FT, CSC, ECCHCP: Yes; EACCS: Yes	RES	Grassland, oak savanna, and edges of mixed woodlands. Breeding: vernal pools, temporary rainwater ponds, permanent human-made ponds if predatory fishes are absent.	High; potentially suitable aestivation and dispersal habitat in Proposed Project area. CNDDB occurrences within 0.75 mile of Proposed Project area.
Western spadefoot	*Spea hammondii*	CSC, ECCHCP: No; EACCS: Yes	RES	Open areas with sandy or gravelly soils, in mixed woodlands, grasslands; rain pools that do not contain bullfrogs, fish, or crayfish are necessary for breeding.	Low; no suitable breeding habitat is present. There are no known records of occurrence within 6 miles of the Proposed Project area.
California red-legged frog	*Rana draytonii*	FT, CSC, ECCHCP: Yes; EACCS: Yes	RES	Grasslands and streamsides with plant cover; permanent water sources: lakes, ponds, reservoirs, slow streams, marshes, bogs, and swamps.	High; suitable breeding, aestivation, and dispersal habitat in Proposed Project area. CNDDB occurrences within 0.5 mile of Proposed Project area.
Foothill yellow-legged frog	*Rana boylii*	CSC, ECCHCP: Yes; EACCS: Yes	RES	Frequents shallow, slow, gravelly streams and rivers with sunny banks, in forests, chaparral, woodlands. Sea level to 6,700 feet.	None; no suitable habitat. There are no known records of occurrence within 6 miles of the Proposed Project area.
Reptiles					
San Joaquin coachwhip	*Masticophis flagellum ruddocki*	CSC, ECCHCP: No; EACCS: Yes	RES	Open, dry, treeless areas, including grassland and saltbush scrub. Takes refuge in rodent burrows, under vegetation and surface objects.	Low; potential habitat lacking shrubs in the Proposed Project area. Occurrence within 5 miles of the Proposed Project area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Alameda whipsnake	*Masticophis lateralis euryxanthus*	FT, CT, ECCHCP: Yes; EACCS: Yes	RES	Open areas in canyons, rocky hillsides, chaparral scrublands, open woodlands, pond edges, and stream courses.	None; no suitable chaparral habitat. There are no known records of occurrence within 6 miles of the Proposed Project area.
Giant garter snake	*Thamnophis gigas*	FT, CT, ECCHCP: Yes; EACCS: Yes	RES	Marshes, sloughs, drainage canals, and irrigation ditches, especially around rice fields, and occasionally in slow-moving creeks.	None; Proposed Project area is outside the known range of the species. There are no known records of occurrence within 6 miles of the Proposed Project area.
Silvery legless lizard	*Anniella pulchra pulchra*	CSC, ECCHCP: Yes; EACCS: Yes	RES	Occurs in moist warm loose soil with plant cover. Occurs in sparsely vegetated areas.	Low; loose friable soils suitable for this species lacking in Proposed Project area, There are no known records of occurrence within 6 miles of the Proposed Project area.
California coast horned lizard	*Phrynosoma coronatum (frontale population)*	CSC, ECCHCP: No; EACCS: Yes	RES	Grasslands, woodlands, and chaparral, with open areas and patches of loose soil; and frequently found near ant hills.	Low; ant prey base not observed during site surveys. Occurrences within 4 miles of the Proposed Project area.
Western pond turtle	*Actinemys marmorata*	CSC, ECCHCP: Yes; EACCS: Yes	RES	Ponds, lakes, rivers, streams, creeks, marshes, and irrigation ditches with abundant vegetation.	Detected; dead pond turtle found onsite. CNDDB occurrences within 1 mile of Proposed Project site. Suitable breeding pond located in the Proposed Project area and along the water supply corridor.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Birds					
Tricolored blackbird	*Agelaius tricolor*	CSC, ECCHCP: Yes; EACCS: Yes	RES (primarily)	Near open accessible water with dense emergent vegetation (e.g., cattails).	None; Site lacks breeding habitat. Closest occurrence is within 1.3 miles of the Proposed Project site.
Golden eagle	*Aquila chrysaetos*	BGPA, CFP, ECCHCP: Yes; EACCS: Yes	RES (primarily)	Open grasslands and savannahs; nests on cliffs of all heights and in large trees in open areas.	Low; suitable breeding habitat not present in Proposed Project area. Occurrences within 5 miles of the Proposed Project area.
Loggerhead shrike	*Lanius ludovicianus*	CSC, ECCHCP: No; EACCS: Yes	RES (primarily)	Open habitats with scattered shrubs, trees, posts, fences, utility lines, or other perches.	Detected; during September 2009 site visits; foraging habitat only, because no trees or shrubs will be impacted during construction.
Western burrowing owl	*Athene cunicularia*	CSC, ECCHCP: Yes; EACCS: Yes	RES (may WNTR to South)	Open, dry grassland. Usually nests in old burrow of ground squirrel, or other small mammal.	Moderate; Suitable breeding and foraging habitat in Proposed Project area. Occurs within 0.75 mile of the Proposed Project area.
Short-eared owl	*Asio flammeus*	CSC, ECCHCP: No; EACCS: No	WNTR	Usually found in open areas with few trees such as annual and perennial grasslands, prairies, dunes, wetlands, and irrigated lands.	Low; winter migrant to central valley and western Sierra Nevada foothills. Suitable roosting and resting habitat not present in the Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.

Appendix C
Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Swainson's hawk	*Buteo swainsoni*	CT, ECCHCP: Yes; EACCS: Yes	SPR-SUM	Open riparian habitat, in scattered trees or small groves in sparsely vegetated flatlands. Usually near water in the Central Valley.	High; foraging habitat only, as no trees will be impacted during construction. Potential nest trees within 0.5 mile. Occurrences within 2.3 miles of Proposed Project area.
Northern harrier	*Circus cyaneus*	CSC, ECCHCP: No; EACCS: Yes	WNTR	Flat, open areas of tall, dense grasses, moist or dry shrubs, and edges for nesting, cover, and feeding.	Moderate; suitable foraging habitat only in Proposed Project area. Closest occurrence reported is approximately 3 miles from the Proposed Project area.
White-tailed kite	*Elanus leucurus*	CFP, ECCHCP: No; EACCS: Yes	RES	Open grasslands, meadows, farmlands, and emergent wetlands. Groves of dense, broad-leafed deciduous trees used for nesting and roosting.	Moderate; foraging habitat only, because no trees will be impacted during construction. Occurrence within 1 mile of the Proposed Project area.
Grasshopper sparrow	*Ammodramus savannarum*	CSC, ECCHCP: No; EACCS: No	SUM	Dense, native grassland with mix of grasses and forbs for nesting and foraging (occasional shrubs).	None; no suitable breeding habitat is present. There are no known records of occurrence within 6 miles of the Proposed Project area.
Yellow-headed blackbird	*Xanthocephalus xanthocephalus*	CSC, ECCHCP: No; EACCS: No	WNTR	Dense emergent wetland of cattails, tules, and other wetland plants; often along border of lake or pond.	None; no suitable breeding or foraging habitat at or near site. There are no known records of occurrence within 6 miles of the Proposed Project area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
California black rail	*Laterallus jamaicensis coturniculus*	CT, FP, ECCHCP: No; EACCS: No	RES	Found in the tidal salt marshes of the northern San Francisco Bay region, primarily in San Pablo and Suisun Bays, freshwater marshes in the foothills of the Sierra Nevada, and in the Colorado River Area.	None; no suitable habitat. There are no known records of occurrence within 6 miles of the Proposed Project area.
Mammals					
San Joaquin kit fox	*Vulpes macrotis mutica*	FE, CT, ECCHCP: Yes; EACCS: Yes	RES	Annual grasslands or grassy open stages of vegetation, some agricultural areas.	Moderate; CNDDB occurrences within 0.75 mile of Proposed Project site. Suitable foraging habitat in Proposed Project area; small mammal burrow located onsite may provide denning opportunities for this species.
American badger	*Taxidea taxus*	CSC, ECCHCP: No; EACCS: Yes	RES	Friable soils and relatively open, uncultivated ground, grasslands, and savannas.	Moderate; suitable foraging habitat in Proposed Project area; small mammal burrow located onsite may provide denning opportunities for this species. CNDDB occurrences within 0.75 mile of Proposed Project area.
Pallid bat	*Antrozous pallidus*	CSC, ECCHCP: Yes; EACCS: Yes	RES	Shrub-steppe grasslands; day roosts in caves, crevices, mines, and occasionally in hollow trees, and buildings.	None; no suitable roosting habitat in Proposed Project area; may disperse through the Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]
Western mastiff bat	*Eumpos perotis californicus*	CSC, ECCHCP: No; EACCS: Yes	RES	Broad open areas; chaparral, oak woodland, grassland, and agricultural areas; primarily cliff-dwelling; building roosts.	None; no suitable roosting habitat in Proposed Project area; may disperse through the Proposed Project area. There are no known records of occurrence within 6 miles of the Proposed Project area.
Fish					
Green sturgeon	*Acipenser medirostris*	FT/CSC, ECCHCP: No; EACCS: No	Feb-Jun	Freshwater and saltwater habitats including deep pools in freshwater rivers, oceanic waters, bays, and estuaries.	None; no suitable habitat in the study area.
Delta smelt	*Hypomesus transpacificus*	FT, CT, ECCHCP: No; EACCS: No	May	The historic range of the delta smelt extended from Suisun Bay upstream to at least the city of Sacramento on the Sacramento River and Mossdale on the San Joaquin River.	None; no suitable habitat in the study area.
Central Valley steelhead	*Oncorhynchus mykiss*	FT, ECCHCP: No; EACCS: Yes	Jul-Apr	Found in tributaries to the San Francisco Bay, including the South Bay. Pass through the San Francisco Estuary during migration to streams for spawning, and during outmigration to the ocean. Spawns in small streams and tributaries with cold, clean water flowing over graveled bottoms and deep pools.	None; no suitable habitat in the study area.

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Comprehensive List of Special-status Species Potentially Occurring in the Byron-Bethany Irrigation District Tracy Hills Water Supply Project Area

Common Name	Scientific Name	Status[a]	Season[b]	Primary Habitat[c]	Likelihood of Occurrence in Proposed Project Area[d]

[a]**Status.**

Federal Status
FE = federally listed as endangered
FT = federally listed as threatened
FD = federally delisted
BGPA = Bald and Golden Eagle Protection Act
BCC = bird of conservation concern

State Status
CE = state listed as endangered
CT = state listed as threatened
CFP = state fully protected
CR = state rare
CSC = state species of concern
CWL = watch list species

California Native Plant Society (CNPS) Status
1A = plants presumed extinct in California
1B = plants rare, threatened, or endangered in California, but more common elsewhere
2 = plants rare, threatened, or endangered in California, but more common elsewhere

East Contra Costa Habitat Conservation Plan (ECCHCP), East Alameda County Conservation Strategy (EACCS)
Yes = covered species
No = not a covered species

[b]**Season**. Blooming period for plants. Season of use for animals: RES = resident; SUMR = summer; WNTR = winter.

[c]**Primary Habitat.** Most common habitat associations.

[d]**Likelihood of Occurrence in Project Area.** Distances based on CNDDB point data and the center of for polygon data.

Sources:
California Department of Fish and Game (query of Clifton Court Forebay, Brentwood, Woodward Island, Holt, Union Island, Tracy, Midway, Altamont, and Byron Hot Springs Quads in CNDDB).

Natural Diversity Database Program "Rarefind" California Natural Diversity Database. The Resources Agency, Sacramento.

California Native Plant Society. 2008. *Inventory of Rare and Endangered Plants* (online 7th edition).

Note:
CNDDB = California Natural Diversity Database

Appendix D
Title 22 of California Code of Regulations

CHAPTER 3 WATER RECYCLING CRITERIA
ARTICLE 1 DEFINITIONS

60301. Definitions

60301.100. Approved laboratory

"Approved laboratory" means a laboratory that has been certified by the Department to perform microbiological analyses pursuant to section 116390, Health and Safety Code.

60301.160. Coagulated wastewater

"Coagulated wastewater" means oxidized wastewater in which colloidal and finely divided suspended matter have been destabilized and agglomerated upstream from a filter by the addition of suitable floc-forming chemicals.

60301.170. Conventional treatment

"Conventional treatment" means a treatment chain that utilizes a sedimentation unit process between the coagulation and filtration processes and produces an effluent that meets the definition for disinfected tertiary recycled water.

60301.200. Direct beneficial use

"Direct beneficial use" means the use of recycled water that has been transported from the point of treatment or production to the point of use without an intervening discharge to waters of the State.

60301.220. Disinfected secondary-2.2 recycled water

"Disinfected secondary-2.2 recycled water" means recycled water that has been oxidized and disinfected so that the median concentration of total coliform bacteria in the disinfected effluent does not exceed a most probable number (MPN) of 2.2 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed, and the number of total coliform bacteria does not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30 day period.

60301.225. Disinfected secondary-23 recycled water

"Disinfected secondary-23 recycled water" means recycled water that has been oxidized and disinfected so that the median concentration of total coliform bacteria in the disinfected effluent does not exceed a most probable number (MPN) of 23 per 100

milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed, and the number of total coliform bacteria does not exceed an MPN of 240 per 100 milliliters in more than one sample in any 30 day period.

60301.230. Disinfected tertiary recycled water

"Disinfected tertiary recycled water" means a filtered and subsequently disinfected wastewater that meets the following criteria:

(a) The filtered wastewater has been disinfected by either:

(1) A chlorine disinfection process following filtration that provides a CT (the product of total chlorine residual and modal contact time measured at the same point) value of not less than 450 milligram-minutes per liter at all times with a modal contact time of at least 90 minutes, based on peak dry weather design flow; or

(2) A disinfection process that, when combined with the filtration process, has been demonstrated to inactivate and/or remove 99.999 percent of the plaque-forming units of F-specific bacteriophage MS2, or polio virus in the wastewater. A virus that is at least as resistant to disinfection as polio virus may be used for purposes of the demonstration.

(b) The median concentration of total coliform bacteria measured in the disinfected effluent does not exceed an MPN of 2.2 per 100 milliliters utilizing the bacteriological results of the last seven days for which analyses have been completed and the number of total coliform bacteria does not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30 day period. No sample shall exceed an MPN of 240 total coliform bacteria per 100 milliliters.

60301.240. Drift

"Drift" means the water that escapes to the atmosphere as water droplets from a cooling system.

60301.245. Drift eliminator

"Drift eliminator" means a feature of a cooling system that reduces to a minimum the generation of drift from the system.

60301.250. Dual plumbed system

"Dual plumbed system" or "dual plumbed" means a system that utilizes separate piping systems for recycled water and potable water within a facility and where the recycled water is used for either of the following purposes:

(a) To serve plumbing outlets (excluding fire suppression systems) within a building or

(b) Outdoor landscape irrigation at individual residences.

60301.300. F-Specific bacteriophage MS-2

"F-specific bacteriophage MS-2" means a strain of a specific type of virus that infects coliform bacteria that is traceable to the American Type Culture Collection (ATCC 15597B1) and is grown on lawns of E. coli (ATCC 15597).

60301.310. Facility

"Facility" means any type of building or structure, or a defined area of specific use that receives water for domestic use from a public water system as defined in section 116275 of the Health and Safety Code.

60301.320. Filtered wastewater

"Filtered wastewater" means an oxidized wastewater that meets the criteria in subsection (a) or (b):

(a) Has been coagulated and passed through natural undisturbed soils or a bed of filter media pursuant to the following:

(1) At a rate that does not exceed 5 gallons per minute per square foot of surface area in mono, dual or mixed media gravity, upflow or pressure filtration systems, or does not exceed 2 gallons per minute per square foot of surface area in traveling bridge automatic backwash filters; and

(2) So that the turbidity of the filtered wastewater does not exceed any of the following:

(A) An average of 2 NTU within a 24-hour period;

(B) 5 NTU more than 5 percent of the time within a 24-hour period; and

(C) 10 NTU at any time.

(b) Has been passed through a microfiltration, ultrafiltration, nanofiltration, or reverse osmosis membrane so that the turbidity of the filtered wastewater does not exceed any of the following:

(1) 0.2 NTU more than 5 percent of the time within a 24-hour period; and

(2) 0.5 NTU at any time.

60301.330. Food crops

"Food crops" means any crops intended for human consumption.

60301.400. Hose bibb

"Hose bibb" means a faucet or similar device to which a common garden hose can be readily attached.

60301.550. Landscape impoundment

"Landscape impoundment" means an impoundment in which recycled water is stored or used for aesthetic enjoyment or landscape irrigation, or which otherwise serves a similar function and is not intended to include public contact.

60301.600. Modal contact time

"Modal contact time" means the amount of time elapsed between the time that a tracer, such as salt or dye, is injected into the influent at the entrance to a chamber and the time that the highest concentration of the tracer is observed in the effluent from the chamber.

60301.620. Nonrestricted recreational impoundment

"Nonrestricted recreational impoundment" means an impoundment of recycled water, in which no limitations are imposed on body-contact water recreational activities.

60301.630. NTU

"NTU" (Nephelometric turbidity unit) means a measurement of turbidity as determined by the ratio of the intensity of light scattered by the sample to the intensity of incident light as measured by method 2130 B. in Standard Methods for the Examination of Water and Wastewater, 20th ed.; Eaton, A. D., Clesceri, L. S., and Greenberg, A. E., Eds; American Public Health Association: Washington, DC, 1995; p. 2-8.

60301.650. Oxidized wastewater.

"Oxidized wastewater" means wastewater in which the organic matter has been stabilized, is nonputrescible, and contains dissolved oxygen.

60301.660. Peak dry weather design flow

"Peak Dry Weather Design Flow" means the arithmetic mean of the maximum peak flow rates sustained over some period of time (for example three hours) during the maximum 24-hour dry weather period. Dry weather period is defined as periods of little or no rainfall.

60301.700. Recycled wateragency.

"Recycled water agency" means the public water system, or a publicly or privately owned or operated recycled water system, that delivers or proposes to deliver recycled water to a facility.

60301.710. Recycling plant

"Recycling plant" means an arrangement of devices, structures, equipment, processes and controls which produce recycled water.

60301.740. Regulatory Agency

"Regulatory agency" means the California Regional Water Quality Control Board(s) that have jurisdiction over the recycling plant and use areas.

60301.750. Restricted access golf course

"Restricted access golf course" means a golf course where public access is controlled so that areas irrigated with recycled water cannot be used as if they were part of a park, playground, or school yard and where irrigation is conducted only in areas and during periods when the golf course is not being used by golfers.

60301.760. Restricted recreational impoundment

"Restricted recreational impoundment" means an impoundment of recycled water in which recreation is limited to fishing, boating, and other non-body-contact water recreational activities.

60301.800. Spray irrigation

"Spray irrigation" means the application of recycled water to crops to maintain vegetation or support growth of vegetation by applying it from sprinklers.

Section 60301.830. Standby Unit Process.

"Standby unit process" means an alternate unit process or an equivalent alternative process which is maintained in operable condition and which is capable of providing comparable treatment of the actual flow through the unit for which it is a substitute.

60301.900. Undisinfected secondary recycled water.

"Undisinfected secondary recycled water" means oxidized wastewater.

60301.920. Use area

"Use area" means an area of recycled water use with defined boundaries. A use area may contain one or more facilities.

ARTICLE 2. SOURCES OF RECYCLED WATER.

60302. Source specifications.

The requirements in this chapter shall only apply to recycled water from sources that contain domestic waste, in whole or in part.

ARTICLE 3. USES OF RECYCLED WATER.

60303. Exceptions

The requirements set forth in this chapter shall not apply to the use of recycled water onsite at a water recycling plant, or wastewater treatment plant, provided access by the public to the area of onsite recycled water use is restricted.

60304. Use of recycled water for irrigation

(a) Recycled water used for the surface irrigation of the following shall be a disinfected tertiary recycled water, except that for filtration pursuant to Section 60301.320(a) coagulation need not be used as part of the treatment process provided that the filter effluent turbidity does not exceed 2 NTU, the turbidity of the influent to the filters is continuously measured, the influent turbidity does not exceed 5 NTU for more than 15 minutes and never exceeds 10 NTU, and that there is the capability to automatically activate chemical addition or divert the wastewater should the filter influent turbidity exceed 5 NTU for more than 15 minutes:

(1) Food crops, including all edible root crops, where the recycled water comes into contact with the edible portion of the crop,

(2) Parks and playgrounds,

(3) School yards,

(4) Residential landscaping,

(5) Unrestricted access golf courses, and

(6) Any other irrigation use not specified in this section and not prohibited by other sections of the California Code of Regulations.

(b) Recycled water used for the surface irrigation of food crops where the edible portion is produced above ground and not contacted by the recycled water shall be at least disinfected secondary-2.2 recycled water.

(c) Recycled water used for the surface irrigation of the following shall be at least disinfected secondary-23 recycled water:

(1) Cemeteries,

(2) Freeway landscaping,

(3) Restricted access golf courses,

(4) Ornamental nursery stock and sod farms where access by the general public is not restricted,

(5) Pasture for animals producing milk for human consumption, and

(6) Any nonedible vegetation where access is controlled so that the irrigated area cannot be used as if it were part of a park, playground or school yard

(d) Recycled wastewater used for the surface irrigation of the following shall be at least undisinfected secondary recycled water:

(1) Orchards where the recycled water does not come into contact with the edible portion of the crop,

(2) Vineyards where the recycled water does not come into contact with the edible portion of the crop,

(3) Non food-bearing trees (Christmas tree farms are included in this category provided no irrigation with recycled water occurs for a period of 14 days prior to harvesting or allowing access by the general public),

(4) Fodder and fiber crops and pasture for animals not producing milk for human consumption,

(5) Seed crops not eaten by humans,

(6) Food crops that must undergo commercial pathogen-destroying processing before being consumed by humans, and

(7) Ornamental nursery stock and sod farms provided no irrigation with recycled water occurs for a period of 14 days prior to harvesting, retail sale, or allowing access by the general public.

(e) No recycled water used for irrigation, or soil that has been irrigated with recycled water, shall come into contact with the edible portion of food crops eaten raw by humans unless the recycled water complies with subsection (a).

60305. Use of recycled water for impoundments.

(a) Except as provided in subsection (b), recycled water used as a source of water supply for nonrestricted recreational impoundments shall be disinfected tertiary recycled water that has been subjected to conventional treatment.

(b) Disinfected tertiary recycled water that has not received conventional treatment may be used for nonrestricted recreational impoundments provided the recycled water is monitored for the presence of pathogenic organisms in accordance with the following:

> (1) During the first 12 months of operation and use the recycled water shall be sampled and analyzed monthly for *Giardia*, enteric viruses, and *Cryptosporidium*. Following the first 12 months of use, the recycled water shall be sampled and analyzed quarterly for *Giardia*, enteric viruses, and *Cryptosporidium*. The ongoing monitoring may be discontinued after the first two years of operation with the approval of the department. This monitoring shall be in addition to the monitoring set forth in section 60321.
>
> (2) The samples shall be taken at a point following disinfection and prior to the point where the recycled water enters the use impoundment. The samples shall be analyzed by an approved laboratory and the results submitted quarterly to the regulatory agency.

(c) The total coliform bacteria concentrations in recycled water used for nonrestricted recreational impoundments, measured at a point between the disinfection process and the point of entry to the use impoundment, shall comply with the criteria specified in section 60301.230 (b) for disinfected tertiary recycled water.

(d) Recycled water used as a source of supply for restricted recreational impoundments and for any publicly accessible impoundments at fish hatcheries shall be at least disinfected secondary-2.2 recycled water.

(e) Recycled water used as a source of supply for landscape impoundments that do not utilize decorative fountains shall be at least disinfected secondary-23 recycled water.

60306. Use of recycled water for cooling

(a) Recycled water used for industrial or commercial cooling or air conditioning that involves the use of a cooling tower, evaporative condenser, spraying or any mechanism that creates a mist shall be a disinfected tertiary recycled water.

(b) Use of recycled water for industrial or commercial cooling or air conditioning that does not involve the use of a cooling tower, evaporative condenser, spraying, or any mechanism that creates a mist shall be at least disinfected secondary-23 recycled water.

(c) Whenever a cooling system, using recycled water in conjunction with an air conditioning facility, utilizes a cooling tower or otherwise creates a mist that could come into contact with employees or members of the public, the cooling system shall comply with the following:

(1) A drift eliminator shall be used whenever the cooling system is in operation.

(2) A chlorine, or other, biocide shall be used to treat the cooling system recirculating water to minimize the growth of *Legionella* and other micro-organisms.

60307. Use of recycled water for other purposes

(a) Recycled water used for the following shall be disinfected tertiary recycled water, except that for filtration being provided pursuant to Section 60301.320(a) coagulation need not be used as part of the treatment process provided that the filter effluent turbidity does not exceed 2 NTU, the turbidity of the influent to the filters is continuously measured, the influent turbidity does not exceed 5 NTU for more than 15 minutes and never exceeds 10 NTU, and that there is the capability to automatically activate chemical addition or divert the wastewater should the filter influent turbidity exceed 5 NTU for more than 15 minutes:

(1) Flushing toilets and urinals,

(2) Priming drain traps,

(3) Industrial process water that may come into contact with workers,

(4) Structural fire fighting,

(5) Decorative fountains,

(6) Commercial laundries,

(7) Consolidation of backfill around potable water pipelines,

(8) Artificial snow making for commercial outdoor use, and

(9) Commercial car washes, including hand washes if the recycled water is not heated, where the general public is excluded from the washing process.

(b) Recycled water used for the following uses shall be at least disinfected secondary-23 recycled water:

(1) Industrial boiler feed,

(2) Nonstructural fire fighting,

(3) Backfill consolidation around nonpotable piping,

(4) Soil compaction,

(5) Mixing concrete,

(6) Dust control on roads and streets,

(7) Cleaning roads, sidewalks and outdoor work areas and

(8) Industrial process water that will not come into contact with workers.

(c) Recycled water used for flushing sanitary sewers shall be at least undisinfected secondary recycled water.

ARTICLE 4. USE AREA REQUIREMENTS.

60310. Use area requirements

(a) No irrigation with disinfected tertiary recycled water shall take place within 50 feet of any domestic water supply well unless all of the following conditions have been met:

(1) A geological investigation demonstrates that an aquitard exists at the well between the uppermost aquifer being drawn from and the ground surface.

(2) The well contains an annular seal that extends from the surface into the aquitard.

(3) The well is housed to prevent any recycled water spray from coming into contact with the wellhead facilities.

(4) The ground surface immediately around the wellhead is contoured to allow surface water to drain away from the well.

(5) The owner of the well approves of the elimination of the buffer zone requirement.

(b) No impoundment of disinfected tertiary recycled water shall occur within 100 feet of any domestic water supply well.

(c) No irrigation with, or impoundment of, disinfected secondary-2.2 or disinfected secondary-23 recycled water shall take place within 100 feet of any domestic water supply well.

(d) No irrigation with, or impoundment of, undisinfected secondary recycled water shall take place within 150 feet of any domestic water supply well.

(e) Any use of recycled water shall comply with the following:

(1) Any irrigation runoff shall be confined to the recycled water use area, unless the runoff does not pose a public health threat and is authorized by the regulatory agency.

(2) Spray, mist, or runoff shall not enter dwellings, designated outdoor eating areas, or food handling facilities.

(3) Drinking water fountains shall be protected against contact with recycled water spray, mist, or runoff.

(f) No spray irrigation of any recycled water, other than disinfected tertiary recycled water, shall take place within 100 feet of a residence or a place where public exposure could be similar to that of a park, playground, or school yard.

(g) All use areas where recycled water is used that are accessible to the public shall be posted with signs that are visible to the public, in a size no less than 4 inches high by 8 inches wide, that include the following wording : "RECYCLED WATER - DO NOT DRINK". Each sign shall display an international symbol similar to that shown in figure 60310-A. The Department may accept alternative signage and wording, or an educational program, provided the applicant demonstrates to the Department that the alternative approach will assure an equivalent degree of public notification.

(h) Except as allowed under section 7604 of title 17, California Code of Regulations, no physical connection shall be made or allowed to exist between any recycled water system and any separate system conveying potable water.

(i) The portions of the recycled water piping system that are in areas subject to access by the general public shall not include any hose bibbs. Only quick couplers that differ from those used on the potable water system shall be used on the portions of the recycled water piping system in areas subject to public access.

Water Recycling Criteria

FIGURE 60310-A

ARTICLE 5. DUAL PLUMBED RECYCLED WATER SYSTEMS.

60313. General requirements.

(a) No person other than a recycled water agency shall deliver recycled water to a dual-plumbed facility.

(b) No recycled water agency shall deliver recycled water for any internal use to any individually-owned residential units including free-standing structures, multiplexes, or condominiums.

(c) No recycled water agency shall deliver recycled water for internal use except for fire suppression systems, to any facility that produces or processes food products or beverages. For purposes of this Subsection, cafeterias or snack bars in a facility whose primary function does not involve the production or processing of foods or beverages are not considered facilities that produce or process foods or beverages.

(d) No recycled water agency shall deliver recycled water to a facility using a dual plumbed system unless the report required pursuant to section 13522.5 of the Water Code, and which meets the requirements set forth in section 60314, has been submitted to, and approved by, the regulatory agency.

60314. Report submittal

(a) For dual-plumbed recycled water systems, **t**he report submitted pursuant to section 13522.5 of the Water Code shall contain the following information in addition to the information required by section 60323:

(1) A detailed description of the intended use area identifying the following:

(A) The number, location, and type of facilities within the use area proposing to use dual plumbed systems,

(B) The average number of persons estimated to be served by each facility on a daily basis,

(C) The specific boundaries of the proposed use area including a map showing the location of each facility to be served,

(D) The person or persons responsible for operation of the dual plumbed system at each facility, and

(E) The specific use to be made of the recycled water at each facility.

(2) Plans and specifications describing the following:

(A) Proposed piping system to be used,

(B) Pipe locations of both the recycled and potable systems,

(C) Type and location of the outlets and plumbing fixtures that will be accessible to the public, and

(D) The methods and devices to be used to prevent backflow of recycled water into the public water system.

(3) The methods to be used by the recycled water agency to assure that the installation and operation of the dual plumbed system will not result in cross connections between the recycled water piping system and the potable water piping system. This shall include a description of pressure, dye or other test methods to be used to test the system every four years.

(b) A master plan report that covers more than one facility or use site may be submitted provided the report includes the information required by this section. Plans and specifications for individual facilities covered by the report may be submitted at any time prior to the delivery of recycled water to the facility.

60315. Design requirements

The public water supply shall not be used as a backup or supplemental source of water for a dual-plumbed recycled water system unless the connection between the two systems is protected by an air gap separation which complies with the requirements of sections 7602 (a) and 7603 (a) of title 17, California Code of Regulations, and the approval of the public water system has been obtained.

60316. Operation requirements

(a) Prior to the initial operation of the dual-plumbed recycled water system and annually thereafter, the Recycled Water Agency shall ensure that the dual plumbed system within each facility and use area is inspected for possible cross connections with the potable water system. The recycled water system shall also be tested for possible cross connections at least once every four years. The testing shall be conducted in accordance with the method described in the report submitted pursuant to section 60314. The inspections and the testing shall be performed by a cross connection

control specialist certified by the California-Nevada section of the American Water Works Association or an organization with equivalent certification requirements. A written report documenting the result of the inspection or testing for the prior year shall be submitted to the department within 30 days following completion of the inspection or testing.

(b) The recycled water agency shall notify the department of any incidence of backflow from the dual-plumbed recycled water system into the potable water system within 24 hours of the discovery of the incident.

(c) Any backflow prevention device installed to protect the public water system serving the dual-plumbed recycled water system shall be inspected and maintained in accordance with section 7605 of Title 17, California Code of Regulations.

ARTICLE 5.1. GROUNDWATER RECHARGE

60320. Groundwater recharge

(a) Reclaimed water used for groundwater recharge of domestic water supply aquifers by surface spreading shall be at all times of a quality that fully protects public health. The State Department of Health Services' recommendations to the Regional Water Quality Control Boards for proposed groundwater recharge projects and for expansion of existing projects will be made on an individual case basis where the use of reclaimed water involves a potential risk to public health.

(b) The State Department of Health Services' recommendations will be based on all relevant aspects of each project, including the following factors: treatment provided; effluent quality and quantity; spreading area operations; soil characteristics; hydrogeology; residence time; and distance to withdrawal.

(c) The State Department of Health Services will hold a public hearing prior to making the final determination regarding the public health aspects of each groundwater recharge project. Final recommendations will be submitted to the Regional Water Quality Control Board in an expeditious manner.

ARTICLE 5.5. OTHER METHODS OF TREATMENT

60320.5. Other methods of treatment

Methods of treatment other than those included in this chapter and their reliability features may be accepted if the applicant demonstrates to the satisfaction of the State Department of Health that the methods of treatment and reliability features will assure an equal degree of treatment and reliability.

ARTICLE 6. SAMPLING AND ANALYSIS

60321. Sampling and analysis

(a) Disinfected secondary-23, disinfected secondary-2.2, and disinfected tertiary recycled water shall be sampled at least once daily for total coliform bacteria. The samples shall be taken from the disinfected effluent and shall be analyzed by an approved laboratory.

(b) Disinfected tertiary recycled water shall be continuously sampled for turbidity using a continuous turbidity meter and recorder following filtration. Compliance with the daily average operating filter effluent turbidity shall be determined by averaging the levels of recorded turbidity taken at four-hour intervals over a 24-hour period. Compliance with turbidity pursuant to section 60301.320 (a)(2)(B) and (b)(1) shall be determined using the levels of recorded turbidity taken at intervals of no more than 1.2-hours over a 24-hour period. Should the continuous turbidity meter and recorder fail, grab sampling at a minimum frequency of 1.2-hours may be substituted for a period of up to 24-hours. The results of the daily average turbidity determinations shall be reported quarterly to the regulatory agency.

(c) The producer or supplier of the recycled water shall conduct the sampling required in subsections (a) and (b).

ARTICLE 7. ENGINEERING REPORT AND OPERATIONAL REQUIREMENTS

60323. Engineering report

(a) No person shall produce or supply reclaimed water for direct reuse from a proposed water reclamation plant unless he files an engineering report.

(b) The report shall be prepared by a properly qualified engineer registered in California and experienced in the field of wastewater treatment, and shall contain a description of the design of the proposed reclamation system. The report shall clearly indicate the means for compliance with these regulations and any other features specified by the regulatory agency.

(c) The report shall contain a contingency plan which will assure that no untreated or inadequately treated wastewater will be delivered to the use area.

60325. Personnel

(a) Each reclamation plant shall be provided with a sufficient number of qualified personnel to operate the facility effectively so as to achieve the required level of treatment at all times.

(b) Qualified personnel shall be those meeting requirements established pursuant to Chapter 9 (commencing with Section 13625) of the Water Code.

60327. Maintenance

A preventive maintenance program shall be provided at each reclamation plant to ensure that all equipment is kept in a reliable operating condition.

60329. Operating records and reports

(a) Operating records shall be maintained at the reclamation plant or a central depository within the operating agency. These shall include: all analyses specified in the reclamation criteria; records of operational problems, plant and equipment breakdowns, and diversions to emergency storage or disposal; all corrective or preventive action taken.

(b) Process or equipment failures triggering an alarm shall be recorded and maintained as a separate record file. The recorded information shall include the time and cause of failure and corrective action taken.

(c) A monthly summary of operating records as specified under (a) of this section shall be filed monthly with the regulatory agency.

(d) Any discharge of untreated or partially treated wastewater to the use area, and the cessation of same, shall be reported immediately by telephone to the regulatory agency, the State Department of Health, and the local health officer.

60331. Bypass

There shall be no bypassing of untreated or partially treated wastewater from the reclamation plant or any intermediate unit processes to the point of use.

ARTICLE 8. GENERAL REQUIREMENTS OF DESIGN

60333. Flexibility of design

The design of process piping, equipment arrangement, and unit structures in the reclamation plant must allow for efficiency and convenience in operation and maintenance and provide flexibility of operation to permit the highest possible degree of treatment to be obtained under varying circumstances.

60335. Alarms

(a) Alarm devices required for various unit processes as specified in other sections of these regulations shall be installed to provide warning of:

(1) Loss of power from the normal power supply.

(2) Failure of a biological treatment process.

(3) Failure of a disinfection process.

(4) Failure of a coagulation process.

(5) Failure of a filtration process.

(6) Any other specific process failure for which warning is required by the regulatory agency.

(b) All required alarm devices shall be independent of the normal power supply of the reclamation plant.

(c) The person to be warned shall be the plant operator, superintendent, or any other responsible person designated by the management of the reclamation plant and capable of taking prompt corrective action.

(d) Individual alarm devices may be connected to a master alarm to sound at a location where it can be conveniently observed by the attendant. In case the reclamation plant is

not attended full time, the alarm(s) shall be connected to sound at a police station, fire station or other full time service unit with which arrangements have been made to alert the person in charge at times that the reclamation plant is unattended.

60337. Power supply

The power supply shall be provided with one of the following reliability features:

(a) Alarm and standby power source.

(b) Alarm and automatically actuated short-term retention or disposal provisions as specified in Section 60341.

(c) Automatically actuated long-term storage or disposal provisions as specified in Section 60341.

ARTICLE 9. RELIABILITY REQUIREMENTS FOR PRIMARY EFFLUENT

60339. Primary treatment

Reclamation plants producing reclaimed water exclusively for uses for which primary effluent is permitted shall be provided with one of the following reliability features:

(a) Multiple primary treatment units capable of producing primary effluent with one unit not in operation.

(b) Long-term storage or disposal provisions as specified in Section 60341.

Note: Use of primary effluent for recycled water is no longer allowed. [repeal of Section 60309, effective December 2000]

ARTICLE 10. RELIABILITY REQUIREMENTS FOR FULL TREATMENT

60341. Emergency storage or disposal

(a) Where short-term retention or disposal provisions are used as a reliability feature, these shall consist of facilities reserved for the purpose of storing or disposing of untreated or partially treated wastewater for at least a 24-hour period. The facilities shall include all the necessary diversion devices, provisions for odor control, conduits, and pumping and pump back equipment. All of the equipment other than the pump back

equipment shall be either independent of the normal power supply or provided with a standby power source.

(b) Where long-term storage or disposal provisions are used as a reliability feature, these shall consist of ponds, reservoirs, percolation areas, downstream sewers leading to other treatment or disposal facilities or any other facilities reserved for the purpose of emergency storage or disposal of untreated or partially treated wastewater. These facilities shall be of sufficient capacity to provide disposal or storage of wastewater for at least 20 days, and shall include all the necessary diversion works, provisions for odor and nuisance control, conduits, and pumping and pump back equipment. All of the equipment other than the pump back equipment shall be either independent of the normal power supply or provided with a standby power source.

(c) Diversion to a less demanding reuse is an acceptable alternative to emergency disposal of partially treated wastewater provided that the quality of the partially treated wastewater is suitable for the less demanding reuse.

(d) Subject to prior approval by the regulatory agency, diversion to a discharge point which requires lesser quality of wastewater is an acceptable alternative to emergency disposal of partially treated wastewater.

(e) Automatically actuated short-term retention or disposal provisions and automatically actuated long-term storage or disposal provisions shall include, in addition to provisions of (a), (b), (c), or (d) of this section, all the necessary sensors, instruments, valves and other devices to enable fully automatic diversion of untreated or partially treated wastewater to approved emergency storage or disposal in the event of failure of a treatment process and a manual reset to prevent automatic restart until the failure is corrected.

60343. Primary treatment

All primary treatment unit processes shall be provided with one of the following reliability features:

(a) Multiple primary treatment units capable of producing primary effluent with one unit not in operation.

(b) Standby primary treatment unit process.

(c) Long-term storage or disposal provisions.

60345. Biological treatment

All biological treatment unit processes shall be provided with one of the following reliability features:

(a) Alarm and multiple biological treatment units capable of producing oxidized wastewater with one unit not in operation.

(b) Alarm, short-term retention or disposal provisions, and standby replacement equipment.

(c) Alarm and long-term storage or disposal provisions.

(d) Automatically actuated long-term storage or disposal provisions.

60347. Secondary sedimentation

All secondary sedimentation unit processes shall be provided with one of the following reliability features:

(a) Multiple sedimentation units capable of treating the entire flow with one unit not in operation.

(b) Standby sedimentation unit process.

(c) Long-term storage or disposal provisions.

60349. Coagulation

(a) All coagulation unit processes shall be provided with the following mandatory features for uninterrupted coagulant feed:

(1) Standby feeders,

(2) Adequate chemical stowage and conveyance facilities,

(3) Adequate reserve chemical supply, and

(4) Automatic dosage control.

(b) All coagulation unit processes shall be provided with one of the following reliability features:

(1) Alarm and multiple coagulation units capable of treating the entire flow with one unit not in operation;

(2) Alarm, short-term retention or disposal provisions, and standby replacement equipment;

(3) Alarm and long-term storage or disposal provisions;

(4) Automatically actuated long-term storage or disposal provisions, or

(5) Alarm and standby coagulation process.

60351. Filtration

All filtration unit processes shall be provided with one of the following reliability features:

(a) Alarm and multiple filter units capable of treating the entire flow with one unit not in operation.

(b) Alarm, short-term retention or disposal provisions and standby replacement equipment.

(c) Alarm and long-term storage or disposal provisions.

(d) Automatically actuated long-term storage or disposal provisions.

(e) Alarm and standby filtration unit process.

Section 60353. Disinfection

(a) All disinfection unit processes where chlorine is used as the disinfectant shall be provided with the following features for uninterrupted chlorine feed:

(1) Standby chlorine supply,

(2) Manifold systems to connect chlorine cylinders,

(3) Chlorine scales, and

(4) Automatic devices for switching to full chlorine cylinders.

Automatic residual control of chlorine dosage, automatic measuring and recording of chlorine residual, and hydraulic performance studies may also be required.

(b) All disinfection unit processes where chlorine is used as the disinfectant shall be provided with one of the following reliability features:

(1) Alarm and standby chlorinator;

(2) Alarm, short-term retention or disposal provisions, and standby replacement equipment;

(3) Alarm and long-term storage or disposal provisions;

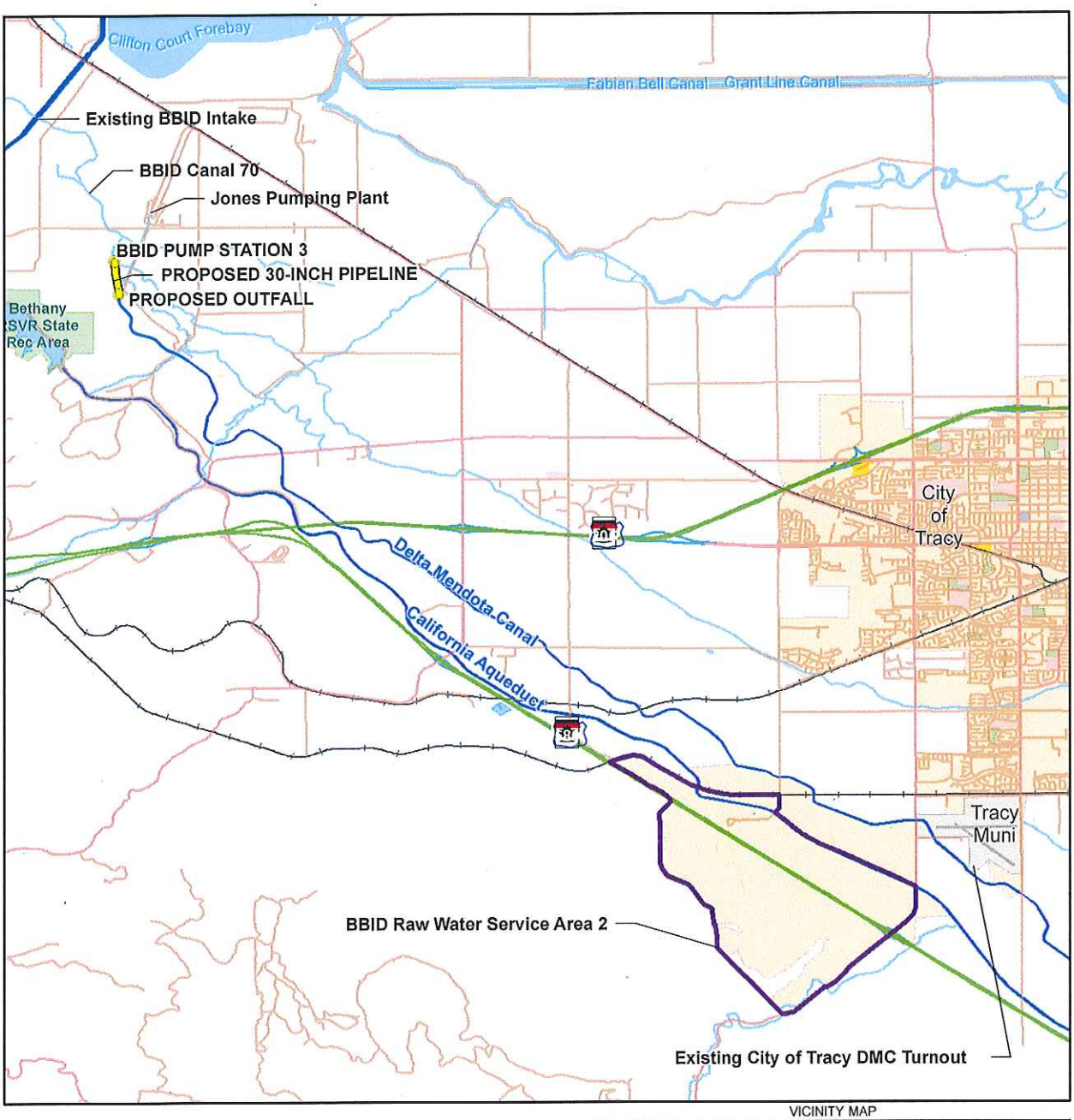
(4) Automatically actuated long-term storage or disposal provisions; or

(5) Alarm and multiple point chlorination, each with independent power source, separate chlorinator, and separate chlorine supply.

60355. Other alternatives to reliability requirements

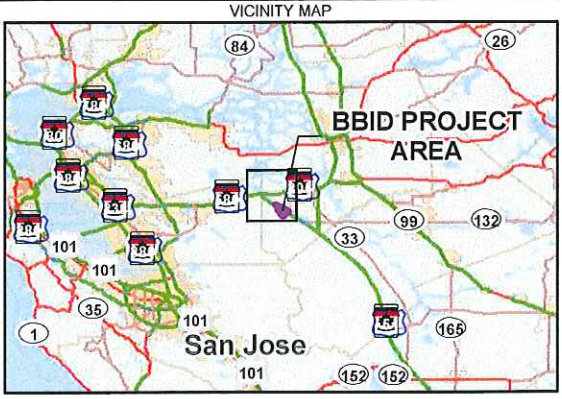
Other alternatives to reliability requirements set forth in Articles 8 to 10 may be accepted if the applicant demonstrates to the satisfaction of the State Department of Health that the proposed alternative will assure an equal degree of reliability.

EXHIBIT A



LEGEND
- INTERSTATE
- PRIMARY US & STATE HIGHWAY
- SECONDARY US & STATE HIGHWAY
- ROAD
- RAILROAD
- BBID RAW WATER SERVICE AREA 2
- CITY AREA

VICINITY MAP



N

0 5,000 10,000
Feet

FIGURE 1
PROJECT AREA
BBID TRACY HILLS WATER SUPPLY PROJECT
TRACY, CALIFORNIA

CH2MHILL

\\THOR\CART1\PROJECTS\BBID_154679\MAPFILES\FIG1_BBID_LOCATION.MXD ECLARK1 12/18/2009 13:35:49

EXHIBIT B

SCCAO-TO Technical Draft 07/20/2012
SCCAO-TO Draft 07/02/2012
SCCAO-TO Draft 05/31/2012
Long-Term Contract – Year 2012 - Year 2052
M&I Only
Contract No. 11-WC-20-0149

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

LONG-TERM CONTRACT BETWEEN THE UNITED STATES AND BYRON BETHANY IRRIGATION DISTRICT PROVIDING FOR THE EXCHANGE OF NON-PROJECT WATER FOR PROJECT WATER DELTA DIVISION AND SAN LUIS UNIT

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SCCAO-TO Technical Draft 07/20/2012
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THIS CONTRACT, executed this xx day of xxxx, 2012, pursuant to the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including the Act of February 21, 1911 (36 Stat. 925), Section 14 of the Reclamation Project Act of August 4, 1939, (53 Stat. 1187), and Section 305 of the Reclamation States Emergency Drought Relief Act of 1991, enacted March 5, 1992 (106 Stat. 59), all collectively hereinafter referred to as the Federal Reclamation laws, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the officer executing this Contract, hereinafter referred to as the Contracting Officer, and BYRON-BETHANY IRRIGATION DISTRICT, hereinafter referred to as the Contractor;

WITNESSETH, That:

EXPLANATORY RECITALS

[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for

flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the Contractor asserts an entitlement to pre-1914 water rights water for irrigation and municipal purposes; and

[3rd] WHEREAS, the Contractor has requested the Contracting Officer approve the use of Excess Capacity in the Delta-Mendota Canal and associated facilities of the Delta Division and San Luis Unit, Central Valley Project (CVP) for the introduction of Non-Project Water, and the conveyance, storage, and/or delivery of Exchanged Water to the Contractor's Raw Water Service Area 2 for Municipal and Industrial purposes; and

[4th] WHEREAS, pursuant to the terms and conditions of this Contract and in accordance with Section 14 of the Reclamation Project Act of 1939, the United States is willing to make available an equivalent amount of Project Water via an exchange of Non-Project Water less losses.

NOW, THEREFORE, in consideration of the covenants herein contained, the parties to this Contract agree as follows:

DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(b) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized representative acting pursuant to this Contract or applicable Reclamation law or regulation;

(c) "Excess Capacity" shall mean capacity in the Project Facilities in excess of that needed to meet the Project's authorized purposes, as determined exclusively by the Contracting Officer, which may be made available for the introduction of Non-Project Water and conveyance, storage, and/or delivery of Exchanged Water;

(d) "Exchange Water" or "Exchanged Water" shall mean that Project Water made available to the Contractor by the Contracting Officer from Project Facilities for a like amount of the Contractor's introduced Non-Project Water less losses.

(e) "Irrigation Water" shall mean Project Water that is used primarily in the commercial production of agricultural crops or livestock, including domestic use incidental thereto. Irrigation Water shall not include water used for purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to landholdings operated in units of less than 5 acres, unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of water delivered to such landholding is a use described in this subdivision of this Article;

(f) "Municipal and Industrial (M&I) Water" shall mean Project Water, other than Irrigation Water, made available to the Contractor. M&I water shall include water used for human use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to land holdings operated in units of less than five acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a use described in subdivision (e) of this Article;

(g) "Non-Project Water" shall mean water acquired by or available to the Contractor from the source(s) identified in Exhibit C that has not been appropriated by the United States;

(h) "Operating Non-Federal Entity(ies)(ONFE)" shall mean the non-federal entity that has the obligation pursuant to a separate agreement with the United States to operate and maintain all or a portion of the Project Facilities, and which may have funding obligations with respect thereto;

(i) "Project" shall mean the Central Valley Project, owned by the United States and managed by the Department of the Interior, Bureau of Reclamation;

(j) "Project Facilities" shall mean the Delta-Mendota Canal, O'Neill Forebay, San Luis Reservoir, and associated facilities, constructed as features of the Delta Division and San Luis Unit, Central Valley Project;

(k) "Project-Use Power" is that electrical energy, and its associated ancillary service components, required to provide the full electrical service needed to operate and maintain Project Facilities, and to provide electric service for Project purposes and loads in conformance with the Reclamation Project authorization.

(l) "Project Water" shall mean all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(m) "Rates" shall mean the amount to be paid to the United States by the Contractor, as set forth in Exhibit B, for the use of Excess Capacity in the Project Facilities made available, for Storage and Conveyance, pursuant to this Contract;

(n) "Raw Water Service Area 2" shall mean the geographic area located within the Contractor's boundary wherein the Contractor is authorized by this Contract to deliver Exchanged Water within the CVP permitted water rights place of use. Contractor's Raw Water Service Area 2 is described in Exhibit A and may be modified in accordance with Article 24 without amendment to this Contract;

(o) "Secretary" shall mean the Secretary of the Interior, a duly appointed successor, or an authorized representative acting pursuant to any authority of the Secretary and through any agency of the Department of the Interior;

(p) "Year, Annual, Annually, or Annum" shall mean the period from and including the effective date of this Contract, through the last day of the 12th consecutive month immediately following.

TERM OF CONTRACT

2. (a) This Contract shall become effective on *MONTH DATE*, 2012 and shall remain in effect through February 29, 2052. The Contractor may request a new contract in writing to the Contracting Officer no later than February 28, 2049.

(b) The Contracting Officer shall not seek to terminate this Contract by reason of an asserted material breach by the Contractor unless it has first provided the Contractor with at least sixty (60) days written notice of the asserted breach and the Contractor fails to cure such breach or fails to diligently commence curative actions satisfactory to the Contracting Officer for a breach that cannot be fully cured within sixty (60) days of the Contractor's receipt of written notice.

(c) *Provided*, that this Contract may be terminated at any time by mutual consent of the parties hereto.

INTRODUCTION, CONVEYANCE, STORAGE, EXCHANGE
AND/OR DELIVERY OF WATER

3. (a) During the term of this Contract, the Contractor, in accordance with an approved schedule submitted by the Contractor pursuant to subdivision (g) of this Article, may introduce Annually up to 4,725 acre-feet of Non-Project Water during the months of March through October from the source identified in Exhibit C into the Delta-Mendota Canal at

milepost 3.32R. Prior to introducing any Non-Project Water, the Contracting Officer will determine the availability of Excess Capacity consistent with Article 9 of this Contract. At the time the Contractor introduces Non-Project Water into the Delta-Mendota Canal, the Contracting Officer will designate a like amount of Project Water less 5% for losses, up to 4,500 acre-feet, as Exchanged Water. The United States or the designated Operating Non-Federal Entity(ies) shall convey Exchanged Water through Excess Capacity in the Project Facilities, from said point of introduction to the Contractor for delivery at milepost 15.88L, or to storage, or to such other location(s) mutually agreed to in writing by the Contracting Officer and the Contractor;

(b) The quantity of Exchanged Water delivered to the Contractor from Project Facilities shall not exceed the quantity of Non-Project Water previously introduced into the Project Facilities by the Contractor, less 5% percent for losses.

(c) This Contract does not preclude any action deemed necessary by the Contracting Officer to recover from the Contractor, Project Water delivered in an amount that exceeds the quantity of Exchanged Water authorized pursuant to subdivision (a) of this Article, or any other remedy available to the Contracting Officer under existing law.

(d) If at any time the Contracting Officer determines that Project Facilities are operationally constrained or have insufficient capacity to allow Non-Project Water to be exchanged in accordance with an approved schedule submitted by the Contractor, the Contracting Officer shall so notify the Contractor as provided in Article 9(d). Within 24 hours of said notice, the Contractor shall revise its schedule accordingly.

(e) Exhibit C may be modified or replaced by mutual agreement of the Contractor and the Contracting Officer to reflect changes to the source of Non-Project Water without amendment of this Contract; *Provided,* that no such modification or replacement shall be approved by the Contracting Officer absent all appropriate environmental documentation, including but not limited to documents prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Endangered Species Act of 1973 (ESA), as amended.

(f) All Exchanged Water delivered to the Contractor pursuant to this Contract shall be used for M&I purposes, only within that portion of Raw Water Service Area 2 that is within the CVP permitted water rights place of use.

(g) The Contractor shall not introduce Non-Project Water into the Project Facilities or take delivery of Exchanged Water unless and until a schedule or any revision(s) thereto have been approved by the Contracting Officer. At the beginning of each Year, the Contractor shall submit appropriate schedule(s) to the Contracting Officer and the designated Operating Non-Federal Entity(ies) showing the monthly estimated quantities of Non-Project Water to be introduced into the Project Facilities and the amount of Exchanged Water to be conveyed, stored, and later made available to the Contractor during the then current Year. The initial schedule and any revision(s) thereof shall be in a form acceptable to the Contracting Officer and shall be submitted at such times and in such manner as determined by the Contracting Officer.

(h) Exchanged Water remaining in the Project Facilities on March 1st of each year unless otherwise agreed to by the parties, shall incur a rescheduling fee or other appropriate fees, which shall be updated Annually. The Contracting Officer will notify the Contractor Annually of any changes to the rescheduling guidelines.

(i) Any Exchanged Water made available to the Contractor at its request for delivery which is not accepted by the Contractor or for which a revised schedule has not been submitted by the Contractor within 30 days after such water is made available shall be deemed to be unused water, available to the United States for other Project purposes.

(j) All Exchanged Water remaining in Project Facilities at Contract termination, shall be deemed to be unused water available to the United States for other Project purposes, unless the Contractor has a newly executed contract.

(k) In the event Excess Capacity becomes unavailable for Exchanged Water stored in Project Facilities, the Exchanged Water shall be deemed the first water spilled from Project Facilities; ***Provided***, that the Contracting Officer will to the extent possible, within a reasonable time frame, inform the Contractor by written notice in addition to other means of notice of any impending spill from Project Facilities where Exchanged Water may be stored.

(l) Unless otherwise agreed to in writing by the Contracting Officer, the Non-Project Water shall be introduced, conveyed, exchanged, and/or delivered on behalf of the Contractor through existing Project Facilities in accordance with the Contractor's License No. 12-LC-20-0171, "Long-Term License for the Erection, Operation, Maintenance, and Storage of

Temporary Structures", dated ___ ***TBD***___. If additional temporary inflow or delivery facilities are required to effectuate the introduction of Non-Project Water into the Project Facilities or the delivery of the Exchanged Water on behalf of the Contractor from the Project Facilities, the Contractor shall, at its own cost and expense obtain all appropriate environmental documents, necessary land use authorization(s) issued by the United States for any such facilities located on certain lands for the right-of-way in connection with Project Facilities, including existing and any new construction of Project or non-Project facilities. The Contractor hereby grants to the Contracting Officer and the Operating Non-Federal Entity(ies) access, for the purpose of this Contract, to all inflow and delivery facilities installed by the Contractor and in accordance with Contractor's License No. 12-LC-20-0171.

(m) Neither the introduction of Non-Project Water nor the delivery of Exchange Water pursuant to this Contract will be supported with Project-Use Power. Project-Use Power is not available to pump Non-Project Water to operate pumps that were not built as Federal facilities as part of the Project, or to pump Project Water outside the authorized service area, or provide for other uses. If electrical power is required to introduce the Non-Project Water or pump the Exchanged Water at the point of delivery, the Contractor shall be responsible for the acquisition and payment of all electrical power and associated transmission service charges, and provide a copy of a power contract and copies of payment documents to the Contracting Officer as evidence that such electrical power has been contracted and paid for prior to the introduction or delivery of any Non-Project Water and Exchanged Water.

(n) The Contractor shall have no rights to any benefits from increased power generation that may result from the introduction of the Non-Project Water and or conveyance of Exchanged Water in or through Project Facilities authorized pursuant to this Contract.

(o) The introduction of Non-Project Water into the Project Facilities by the Contractor shall be conditioned upon compliance by the Contractor with the environmental measures described in the environmental documentation prepared in connection with the execution of this Contract as well as any amendments and/or supplements thereto and with the terms of the applicable operations practices approved by the Contracting Officer.

MEASUREMENT OF WATER

4. (a) All Non-Project Water shall be measured and recorded at the point(s) of introduction and point(s) of delivery and all Exchanged Water shall be measured and recorded at the point(s) of delivery established pursuant to Article 3 herein with measurement devices acceptable to the Contracting Officer and the methods used to make such measurements shall be in accordance with sound engineering practices.

(b) Unless otherwise agreed to in writing by the Contracting Officer, the Contractor, at its own cost and expense, shall be responsible for providing, installing, operating, maintaining, repairing, replacing, and removing all measurement devices required under this Contract in accordance with any right-of-use agreement(s) or other requisite authorization(s) issued by the United States. The Contractor shall be responsible for all costs associated with the issuance of such right-of-use agreement(s) and authorization(s).

(c) The Contractor shall maintain accurate records of the quantity of Non-Project Water and Exchanged Water, expressed in acre-feet, introduced into, conveyed, stored, exchanged and/or delivered from Project Facilities at said authorized point(s) of introduction and delivery and shall provide such records to the Contracting Officer and the Operating Non-Federal Entity(ies) at such times and in such manner as determined by the Contracting Officer.

(d) The Operating Non-Federal Entity, namely, the San Luis & Delta-Mendota Water Authority (SLDMWA) or its successor shall be responsible for the calibration, measurement, recording, and reporting of the flow measurements of Non-Project Water and Exchanged Water provided for under this Contract, and shall provide the Contracting Officer and the Contractor with monthly water delivery reports demonstrating whether or not the Contractor has introduced Non-Project Water into the Project Facilities sufficient to offset the amount of Exchanged Water delivered for the Contractor from the Project Facilities and to account for any conveyance losses.

(e) Upon the request of the Contractor, the Contracting Officer shall investigate, or cause to be investigated by the Operating Non-Federal Entity, the accuracy of all measurements of Non-Project Water and/or Exchanged Water required by this Contract. If the investigation discloses errors in the recorded measurements, such errors shall be promptly corrected. If the investigation discloses that measurement devices are defective or inoperative, the Contracting Officer shall take any necessary actions to ensure that the responsible party makes the appropriate adjustments, repairs, or replacements to the measurement devices. In the

event the Contractor, as the responsible party, neglects or fails to make such adjustments, repairs, or replacements to the measurement devices within a reasonable time and to the reasonable satisfaction of the Contracting Officer, the Contracting Officer may cause such adjustments, repairs, or replacements to be made and the costs thereof shall be charged to the Contractor and the Contractor shall pay said charges to the United States immediately upon receipt of a detailed billing. For any period of time during which accurate measurements of the Non-Project Water and/or Exchanged Water have not been made, the Contracting Officer shall consult with the Contractor and the Operating Non-Federal Entity prior to making a determination of the quantity of Non-Project Water and/or Exchanged Water introduced, conveyed and delivered for that period of time and such determination by the Contracting Officer shall be final and binding on the Contractor.

OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY(IES)

5. (a) The operation and maintenance of a portion of the Project Facilities to be used to introduce Non-Project Water, and convey, store, and/or deliver the Exchanged Water to the Contractor, and responsibility for funding a portion of the costs of such operation and maintenance, have been transferred from the United States to the designated Operating Non-Federal Entities, the SLDMWA, pursuant to a separate agreement identified as Contract No. 8-07-20-X0354, dated February 18, 2003 (Agreement), as amended and to the California Department of Water Resources (DWR), pursuant to a separate agreement identified as Contract

No. 14-06-200-9755, as amended. Such separate agreements shall not interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

(b) The Contractor shall pay directly to the SLDMWA, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement described in subdivision (a) of this Article 5, all rates, charges, or assessments of any kind, including any assessment for reserve funds, that the SLDMWA or such successor determines, sets, or establishes for the operation and maintenance of the portion of the Project Facilities operated and maintained by the SLDMWA or such successor used to convey and deliver the Non-Project Water and Exchanged Water to the Contractor.

(c) If the operation and maintenance of any portion of the Project Facilities used to convey, store, and/or deliver the Non-Project Water or Exchanged Water to the Contractor is performed by DWR, or any successor thereto, the Contractor shall pay directly to DWR, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement described in sub-division (a) of this Article 5, all rates, charges, or assessments of any kind, including any assessment for reserve funds, that DWR or such successor determines, sets, or establishes for the operation and maintenance of the portion of the Project Facilities operated and maintained by DWR or such successor used to convey and deliver the Non-Project Water and Exchanged Water to the Contractor. The Contracting Officer shall adjust those components of the Rates for the Non-Project Water and Exchanged Water conveyed

under this Contract by deleting the costs associated with the activity being performed by DWR or its successor.

(d) In the event the United States reassumes operation and maintenance of any portion of the Project Facilities from the Operating Non-Federal Entity(ies), the Contracting Officer shall so notify the Contractor, in writing, and shall revise the Rates on Exhibit B to include the costs associated with the operation and maintenance activities reassumed by the United States. The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates specified in the revised Exhibit B directly to the United States in compliance with Article 6 of this Contract.

PAYMENTS AND ADJUSTMENTS

6. (a) At the time the Contractor submits a schedule, or any revision(s) thereof pursuant to subdivision (i) of Article 3 of this Contract, the Contractor shall make an advance payment to the United States, 60 days in advance, at the Rate shown on Exhibit B for each acre-foot of Non-Project Water introduced into the Project Facilities; *Provided*, that where the Contractor's schedule provides for multiple introductions of Non-Project Water, advance payment may be made in increments corresponding to the amount of each scheduled introduction. Non-Project Water shall not be introduced into Project Facilities by the Contractor prior to such payment being received by the United States.

(b) The amount of any overpayment by the Contractor by reason of the quantity of Non-Project Water introduced into the Project Facilities and Exchanged Water

conveyed, stored, and/or delivered pursuant to this Contract, as exclusively determined by the Contracting Officer, having been less than the quantity which the Contractor otherwise under the provisions of this Contract would have been required to pay for, shall be applied first to any accrued indebtedness arising out of this Contract then due and owing to the United States by the Contractor. Within 60 days after March 1st of each year, unless otherwise agreed to by the parties, the Contractor may request a refund of any amount of such payment. Provided, that no refund shall be made by the United States to the Contractor for any quantity of Non-Project Water or Exchanged Water deemed to be unused water available to the United States for other Project purposes pursuant to subdivision (i) and (j) of Article 3 of this Contract.

(c) The payment of the Rates set forth in this Article 6 for the use of Project Facilities are exclusive of O&M costs to be paid directly to the Operating Non-Federal Entity(ies) by the Contractor, and any additional charges that the Contractor may assess its water users.

(d) The Rates and costs, set forth in Exhibit "B," shall be updated Annually without amending this Contract.

OTHER PAYMENTS

7. In addition to the payments described in Article 6 above, the Contractor is required upon execution and for the duration of this Contract, to have an executed letter of agreement (LOA) as provided for in Exhibit E, with the Contracting Officer to among other things, allow for payment in advance of all costs incurred by Reclamation while administering

this Contract. The LOA is the instrument funded by the Contractor to cover Reclamation's costs for ongoing administration and monitoring of this Contract or other actions applicable to this Contract that may occur until the expiration or termination of this Contract. The LOA may be modified, revised, or amended without amending this Contract.

MEDIUM FOR TRANSMITTING PAYMENTS

8. (a) All payments from the Contractor to the United States under this Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of the Contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

EXCESS CAPACITY

9. (a) The availability of Excess Capacity shall be determined exclusively by the Contracting Officer, which may involve consultation with SLDMWA and/or DWR or their respective successors. Nothing contained in this Contract shall limit or preclude the United States from utilizing available capacity in the Project Facilities for the storage and conveyance of Project Water pursuant to Federal law, Reclamation law or policy, and existing contract(s); or for using Excess Capacity in the Project Facilities for the introduction of Non-Project Water and the conveyance, storage, and/or delivery of Exchanged Water.

(b) The Contracting Officer will retain regulatory authority and operational control over exchanges to ensure: (i) that Project Water is positioned where it can continuously

serve Project purposes; (ii) that storage space is maintained to allow for scheduled movement of Project Water; (iii) that conveyance capacity is maintained for scheduled movement of Project Water; and (iv) that the interest of the Project and its beneficiaries are protected.

(c) The Contracting Officer and the Operating Non-Federal Entity(ies) shall not be obligated to allow introduction of Non-Project Water, or to convey, store, and/or deliver Exchanged Water during periods of maintenance or for other operating requirements.

(d) If at any time the Contracting Officer determines that there will not be Excess Capacity in the Project Facilities sufficient to allow the Non-Project Water to be introduced, and/or Exchanged Water to be conveyed, stored and/or delivered in accordance with an approved schedule submitted by the Contractor, the Contracting Officer or the Operating Non-Federal Entity(ies) shall so notify the Contractor with as much advance notice as feasible with written or electronic notification to follow within a reasonable timeframe. Within 24 hours of said notice, the Contractor shall revise its schedule accordingly.

(e) No provision of this Contract shall be construed in any way as a basis for the Contractor to establish a priority to or a permanent right to the use of Excess Capacity in Project Facilities nor to set a precedent to obligate the United States to enter into contracts with any other entities or individuals.

RECEIPT AND DISTRIBUTION OF NON-PROJECT AND EXCHANGED WATER - SALE, TRANSFER, OR EXCHANGE OF NON-PROJECT WATER

10. (a) The Contractor shall comply with all applicable Federal, State, and local laws, rules and regulations, including but not limited to, State water law, applicable State and

Federal court decisions, and/or decisions, or orders of any other entity of competent jurisdiction, in relation to the Non-Project Water. The Contractor shall provide written notice to the Contracting Officer at the time any action is commenced in State court, Federal court, or any other entity of competent jurisdiction, related to the Contractor's rights to the Non-Project Water. It is expressly understood by the parties that the United States does not claim any interest in the acquisition or use of the Non-Project Water beyond the terms specifically set forth in this Contract.

(b) The Exchanged Water provided to the Contractor pursuant to this Contract shall be delivered only to Raw Water Service Area 2 lands that are within the CVP water rights permitted place of use as defined in sub-Article 1(n) and identified in Exhibit A herein.

(c) The Contracting Officer makes no representations as to the accuracy of the description or of the validity of the Contractor's rights to the Non-Project Water described in Exhibit C. The Contracting Officer does not guarantee, certify or warrant the right to Non-Project Water of the Contractor.

(d) No sale, transfer, or exchange of Exchanged Water conveyed under this Contract may, except as otherwise expressly provided herein, take place without the prior written approval of the Contracting Officer.

WATER CONSERVATION

11. (a) Prior to the delivery of water provided from or conveyed through federally

constructed or federally financed facilities pursuant to this Contract, the Contractor shall develop a water conservation plan, as required by subsection 210(b) of the RRA and 43 C.F.R. 427.1.

(b) Omitted.

UNITED STATES NOT LIABLE

12. (a) The United States, its officers, agents and employees, including the Operating Non-Federal Entity, shall not be responsible for the control, care, or distribution of the Non-Project Water before it is introduced into Project Facilities or Exchanged Water after it is delivered from the Project Facilities.

(b) The Contractor shall indemnify and hold harmless the United States, its officers, agents and employees, and the Operating Non-Federal Entity(ies), from any loss or damage and from any liability on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage, of any nature whatsoever arising out of any actions or omissions of the Contractor, its directors, officers, agents, contractors, and employees, under this Contract, including the determination of the quantity of Excess Capacity available and the manner or method or quantity in which the Non-Project Water and Exchanged Water is introduced, conveyed, stored, exchanged, and/or delivered to/from the Project Facilities, excepting only such personal injury, death or property damage caused solely by the willful misconduct of the United States, its officers, agents and employees or the willful misconduct of the Operating Non-Federal Entity(ies). Nothing contained in this Article shall be construed as an assumption of liability by the Contractor with respect to such matters.

OPINIONS AND DETERMINATIONS

13. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner. Nothing in subdivision (a) of this Article 13 is intended to or shall affect or alter the standard of judicial review applicable under Federal law to any opinion or determination implementing a specific provision of Federal law embodied in statute or regulation.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

PROTECTION OF WATER AND AIR QUALITY

14. (a) **Omitted.**

(b) The United States is under no obligation to construct or furnish water treatment facilities to maintain or to improve the quality of Exchanged Water provided to the

Contractor pursuant to this Contract. The Contracting Officer does not warrant the quality of Exchanged Water delivered to the Contractor.

(c) The Contractor shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the introduction of Non-Project Water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Project Facilities or Contractor facilities or Non-Project Water provided by the Contractor within the Contractor's Boundaries.

(d) This Article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

(e) The Non-Project Water introduced into the Project Facilities shall be of such quality, as determined exclusively by the Contracting Officer, as to not significantly degrade the quality of the Project Water. If it is determined by the Contracting Officer that the quality of the Non-Project Water from any source identified in Exhibit C will significantly degrade the quality of Project Water in or introduced into the Project Facilities, the Contractor shall, upon receipt of a written notice, or otherwise from the Contracting Officer, arrange for the immediate termination of the introduction of Non-Project Water from such source into the Project Facilities, and Exhibit C shall be modified to delete such source of Non-Project Water.

(f) Exhibit D identifies the Quality Assurance Project Plan (Plan) and includes the minimum water quality standards for monitoring the quality of Non-Project Water introduced by the Contractor into Project Facilities and the laboratories approved by the Contracting Officer that are to be used for conducting water quality analyses. The Contractor is responsible for sampling and analytical costs associated with evaluating quality of the Non-

Project Water. Non-Project Water introduced into Project Facilities for purposes of water quality testing is considered Project water.

(g) At all times during the term of this Contract, the Contractor shall be in compliance with the requirements of the then-current Plan approved by the Contracting Officer. The Plan describes the sample collection procedures, water testing methods, and data review process, including quality control/quality assurance protocols, to verify analytical results.

(h) The Contracting Officer reserves the right to require additional analyses to ensure the Non-Project Water meets the Bureau of Reclamation's water quality acceptance criteria.

CHARGES FOR DELINQUENT PAYMENTS

15. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, in addition to the interest charge, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, in addition to the interest and administrative charges, the Contractor shall pay a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of either the rate prescribed quarterly in the *Federal Register* by the Department of the Treasury for application to overdue payments or the interest rate of 0.5 percent per month. The interest charge rate will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

EQUAL EMPLOYMENT OPPORTUNITY

16. During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965 (EO 11246), and shall post copies of the notice in conspicuous places available to

employees and applicants for employment.

(d) The Contractor will comply with all provisions of EO 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in EO 11246, and such other sanctions may be imposed and remedies invoked as provided in EO 11246 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of EO 11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

CERTIFICATION OF NONSEGREGATED FACILITIES

17. The Contractor hereby certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,

parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, disability, or otherwise. The Contractor further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for making false statements in offers is prescribed in 18 U.S.C.1001.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

18. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes prohibit any person in the United States from being excluded from participation in, being denied the benefits of, or being otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(c) The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article and that the United States reserves the right to seek judicial enforcement thereof.

(d) Complaints of discrimination against the Contractor shall be investigated by the Contracting Officer's Office of Civil Rights.

GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

19. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligation to the Contractor.

(b) The payment of charges becoming due pursuant to this Contract is a condition precedent to receiving benefits under this Contract. The United States shall not allow the introduction of Non-Project Water and make Exchanged Water available to the Contractor through Project Facilities during any period in which the Contractor is in arrears in the advance payment of Rates and charges due the United States. The Contractor shall not introduce Non-Project Water and deliver Exchanged Water under the terms and conditions of this Contract for lands or parties that are in arrears in the advance payment of rates and charges as levied or established by the Contractor.

BOOKS, RECORDS, AND REPORTS

20. The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including the Contractor's financial transactions; water supply data; project operation, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this contract.

CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

21. The expenditure or advance of any money or the performance of any obligation of the United States under this contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

22. The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

OFFICIALS NOT TO BENEFIT

23. No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN CONTRACTOR'S ORGANIZATION

24. While this Contract is in effect, no change may be made in the Contractor's Raw Water Service Area 2, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractor under this Contract including, but not limited to, dissolution, consolidation, or merger, except upon the Contracting Officer's written consent.

NOTICES

25. Any notice, demand, or request authorized or required by this **C**ontract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Bureau of Reclamation, Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Byron-Bethany Irrigation District, 7995 Bruns Road, Byron, California 94514-1625. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

INCORPORATION OF EXHIBITS

26. Exhibits A through E are attached hereto and incorporated herein by reference and may be updated without amending this Contract.

CONTRACT DRAFTING CONSIDERATIONS

27. This Contract has been negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains. The double-spaced articles of this Contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated articles.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

UNITED STATES OF AMERICA

By: _____
Regional Director
Mid-Pacific Region
Bureau of Reclamation

(SEAL)

BYRON-BETHANY IRRIGATION DISTRICT

By: _____
Board President

Attest:

_____
Secretary

Placeholder for Exhibit A - Map

EXHIBIT B

BYRON-BETHANY IRRIGATION DISTRICT
YEAR 2012 ANNUAL RATES
(Per Acre-Foot)

Cost of Service (COS) Rate[1]	**M&I Water**
Capital Component	
Storage	$2.40
Conveyance	$4.58
Conveyance Pumping	
O'Neill Pumping Plant	$0.54
Other Cost	$1.75
Facilities Use Charge[2, 3]	$0.00
O&M Component	
Water Marketing	$3.13
Storage	$7.49
Conveyance and Conveyance Pumping[4]	
Total COS (O&M +Capital)[5]	**$19.89**

EXPLANATORY NOTES

1. 2012 Special – Section 4 – Warren Act Contract, Schedule W-1
2. Cost of Exchanged Water awaiting return (benefits for use of facilities)
3. Cost of Returning Water to RWSA2 (Facilities usage and pumping required for the return of water.
4. Conveyance and conveyance pumping O&M costs were removed for ratesetting purposes and are to be billed directly by the Operating Non-Federal Entity.
5. All costs components identified in the Cost of Service Rate of this rate exhibit are required to be paid for each acre-foot of Non-Project water introduced, conveyed, stored, exchanged, and/or delivered.

Additional details of the rate components are available on the Internet at www.usbr.gov/mp/cvpwaterrates/ratebooks/special

EXHIBIT C

SOURCE(S) OF CONTRACTOR'S NON-PROJECT WATER
BYRON-BETHANY IRRIGATION DISTRICT

Source of Non-Project Water: The source of Non-Project Water is the Contractor's asserted entitlement to pre-1914 Water Rights with a priority date of May 18, 1914 for 40,000 miners inches (equivalent to 700,000 acre-feet annually) measured under four-inch pressure from Italian Slough, a tributary to Old River. Pursuant to "Agreement Between Byron-Bethany Irrigation District and the State of California Department of Water Resources," executed May 4, 1964, the Department of Water Resources (DWR) was allowed to cross and destroy a portion of the District's lateral. In exchange, the Contractor was granted permanent and perpetual use as its point of diversion the DWR's State Water Project Intake Channel.

For the purposes of this Contract, the Contractor is requesting to divert up to 4,725 acre-feet of this source of Non-Project Water through a newly constructed pipeline under Contractor's License No. 12-LC-20-0171 ("Long-Term License for the Erection, Operation, Maintenance, and Storage of Temporary Structures") from the District's Pump Station 3 off Canal 70 for the conveyance and introduction into the Delta Mendota Canal during the months of March through October on an annually basis.

Point of Introduction: Based on the availability of Excess Capacity and with Contracting Officer approval, the Contractor may introduce the Non-Project Water from their pipeline into the Delta-Mendota Canal at milepost 3.32R in accordance with an approved schedule.

Point of Delivery: Reclamation will convey the Contractor's Exchanged Water either to storage in Project facilities for later delivery or convey it directly to milepost 15.88L of the Delta-Mendota Canal or to such other location(s) mutually agreed to in writing by the Contracting Officer and the Contractor..

EXHIBIT D

PLACEHOLDER FOR THE DELTA-MENDOTA CANAL
(SURFACE WATER)
QUALITY ASSURANCE PLAN
(referenced in Article 11)

EXHIBIT E

PLACEHOLDER FOR THE LETTER OF AGREEMENT
(referenced in Article 7)

RESOLUTION _____

APPROVING A WHOLESALE WATER AGREEMENT BETWEEN BYRON BETHANY IRRIGATION DISTRICT AND THE CITY OF TRACY FOR WATER SUPPLY FOR TRACY HILLS, FINDING THE CEQA NEGATIVE DECLARATION ADEQUATE FOR THE CITY'S USE, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, Byron-Bethany Irrigation District ("BBID") is a local public agency formed pursuant to Division 11 of the California Water Code, and

WHEREAS, BBID proposes to enter into a Wholesale Water Agreement (the "Agreement") with the City of Tracy which, in conjunction with a long-term exchange contract with the United States Bureau of Reclamation, will provide for the delivery, treatment and distribution of up to 4,500 acre-feet of water per year to BBID's Raw Water Service Area 2 (collectively, the "Project"), and

WHEREAS, The City of Tracy is a "responsible agency" for the Project under the California Environmental Quality Act ("CEQA") because it has approval authority over the Agreement, and

WHEREAS, BBID, as "lead agency" for the Project and pursuant to CEQA, consulted with the City regarding the Project, and subsequently prepared and circulated a draft Negative Declaration and Initial Study for a 30-day public review, and

WHEREAS, On November 26, 2012, after the close of the public review period, BBID adopted and certified the Negative Declaration for the Project, and

WHEREAS, Title 14, Section 15096(f) of the California Code of Regulations requires a responsible agency to consider a lead agency's negative declaration and determine whether it is adequate for use by the responsible agency prior to reaching a decision on a project, and

WHEREAS, The City Council has reviewed and considered BBID's Negative Declaration, Initial Study, and other associated CEQA documents, and

WHEREAS, The Agreement provides water supply for the portion of the Tracy Hills Specific Plan area, and

WHEREAS, BBID will construct the necessary pump station and pipeline between their facilities and the Delta-Mendota Canal ("DMC"), and

WHEREAS, Delivery of the water is to be scheduled through the USBR and is subject to conveyance capacity being available in the DMC, and

WHEREAS, The agreement has a term through February 28, 2053.

NOW, THEREFORE, BE IT RESOLVED That the City Council:

1) Approves the Wholesale Water Agreement between Byron Bethany Irrigation District and the City of Tracy and authorizes the Mayor to execute the agreement; and

2) Finds that Byron-Bethany Irrigation District's Negative Declaration and associated documents are adequate for the City of Tracy's use in its consideration and approval of the Wholesale Water Agreement, and directs staff to file a Notice of Determination pursuant to Title 14, Section 15096, subdivision (i) of the California Code of Regulations.

* * * * * * * * * * * * * *

The foregoing Resolution 2013-____ was adopted by the Tracy City Council on the 6th day of August, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.E

REQUEST

RESCIND RESOLUTION 2013-076, APPROVE THE REVISED LATHROP-TRACY PURCHASE, SALE AND AMENDMENT AGREEMENT, AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT, AUTHORIZE A SUPPLEMENTAL APPROPRIATION FROM THE WASTEWATER FUND AND ESTABLISH A LOAN TO THE WATER FUND IN THE AMOUNT OF $5 MILLION

EXECUTIVE SUMMARY

On June 4, 2013, Tracy City Council authorized the water purchase agreement (Resolution 2013-076). This agreement required approval by all five participating agencies. Unfortunately, the City of Manteca's staff did not move the item forward for Manteca City Council consideration. A revised three party agreement has been prepared to allow acquisition by Tracy of two million gallons per day surplus of treated water capacity and 1,120 acre-feet of surplus water supply in the South County Water Supply Project from the City of Lathrop. The City of Tracy has need for this additional capacity and water supply and the subject agreement provides for its acquisition by Tracy.

DISCUSSION

The South San Joaquin Irrigation District constructed, and now operates, the South County Water Supply Project (SCWSP). The project includes the Nick DeGroot Water Treatment Plant at Woodward Reservoir and 40 miles of pipeline delivering water to the cities of Manteca, Lathrop, Tracy, and in the future, Escalon. The project commenced delivering water in 2005. In recent years, this project has delivered approximately 70% of the water used in Tracy.

The City of Lathrop has updated its Water Master Plan and determined that because of changed urban growth land use projections, water conservation, water use efficiency, and future use of recycled water that it has more capacity and water supply in the SCWSP than needed for their current or projected needs. Therefore, the City of Lathrop is proposing to sell Tracy two million gallons per day of surplus capacity and 1,120 acre-feet of surplus water supply.

Tracy desires to increase its participation in the SCWSP in order to improve water quality to its customers, increase its water supply and decrease the salinity of its wastewater effluent. The purchase and use of this capacity and water supply will allow further reduction in the salinity level of the treated wastewater discharged into the Delta. No physical facilities need to be constructed for Tracy to utilize this capacity and water supply. The SCWSP has approved environmental documents and the proposed water use in Tracy in-lieu of Lathrop will not divert additional water from the Stanislaus River. The Purchase, Sale and Amendment Agreement is not a project as defined by CEQA. Tracy intends to put this additional capacity and water supply to immediate use.

Therefore, staff is recommending that the City Council rescind Resolution 2013-076 and approve the revised Lathrop-Tracy Purchase, Sale and Amendment Agreement.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's four strategic plans.

FISCAL IMPACT

There is no fiscal impact to the General Fund. The purchase price for the capacity and allocation is $5 million. The original cost to Lathrop to construct this capacity in 2003 was $4.6 million. Lathrop has incurred considerable interest expense from the bonds issued for construction.

The operating cost associated with the increased capacity and allocation is approximately $250,000 per year. Tracy currently budgets $3.2 million per year for SSJID water supply and the purchase results in a minimal water rate impact.

To fund this purchase, staff recommends a supplemental appropriation and loan from the Wastewater Enterprise Fund. Payments will include interest at the rate of 2.5% annually. The term of the loan is anticipated to be approximately 2 years. During that time, it is anticipated, that adequate funds from development will be collected to retire the loan. The Lathrop-Tracy Purchase Agreement will not be effective until reimbursement agreements have been entered into to cover the City's costs and required security is provided to the City.

RECOMMENDATION

That the City Council, by resolution:

(1) Rescind Resolution 2013-076;

(2) Approve the revised Lathrop-Tracy Purchase, Sale and Amendment Agreement and authorize the Mayor to execute the agreement; and

(3) Authorize a supplemental appropriation from the Wastewater Fund, and establish a loan to the Water Fund in the amount of $5 million.

Prepared by: Steve Bayley, Project Specialist

Reviewed by: Rod Buchanan, Interim Director of Public Works

Approved by: R. Leon Churchill, Jr., City Manager

Attachment A: Lathrop – Tracy Purchase, Sale and Amendment Agreement

ATTACHMENT A

SOUTH COUNTY WATER SUPPLY PROJECT

LATHROP-TRACY PURCHASE, SALE AND AMENDMENT AGREEMENT

This Purchase, Sale and Amendment Agreement ("Purchase and Amendment Agreement") is made this 6th day of August, 2013 by and between the City of Tracy ("Tracy") and the City of Lathrop ("Lathrop"), each a municipal corporation, and the South San Joaquin Irrigation District ("SSJID") a California irrigation district. Tracy, Lathrop and SSJID are each a Party to this Purchase and Amendment Agreement and collectively are the Parties hereto.

RECITALS

A. SSJID has constructed and now owns, operates and maintains the South County Water Supply Project ("Project"). The Project includes without limitation, water treatment and pumping facilities, storage facilities, raw water and treated water pipelines, pumps and turnout facilities, as needed for the purpose of supplying treated drinking water to Tracy and Lathrop, as well as the other Project Participants, Escalon and Manteca.

B. Tracy and Lathrop have each entered into a Water Supply Development Agreement (the "WSDA's") with SSJID, each dated as of October 1, 1995. The Lathrop WSDA was amended in 2000 by Amendment No. 1. There have not been any amendments to the Tracy WSDA. These WSDA's, as amended from time to time, are incorporated herein by reference and referred to herein individually as the Tracy WSDA and the Lathrop WSDA.

C. The Tracy WSDA and Lathrop WSDA provided for Lathrop and Tracy's participation in Project construction and financing. The WSDA's further provide Tracy and Lathrop with rights to purchase from SSJID, and have treated and delivered to them by SSJID, water up to the amounts specified in their respective WSDA's (their "Project Allotments".) Under the Tracy WSDA, Tracy has a Phase I Project Allotment of 10,000 acre-feet per year (AFY) and a Phase II Project Allotment of 10,000 AFY. Under the Lathrop WSDA, Lathrop has a Phase I Project Allotment of 8,007 AFY and a Phase II Project Allotment of 11,791 AFY. The Project Allotments are shown in Exhibit A to the Tracy WSDA and Exhibit E to the Lathrop, Escalon and Manteca WSDA's (see Section 2.G of Amendment No. 1).

D. The Project operates at varying rates of flow from time to time, expressed in million gallons per day (mgd) ("Flow Rate"). The water treatment plant's average flow rate represents the daily flow to each Project Participant if

that Project Participant's Project Allotment were to be delivered evenly over a period of 365 days per year. The Project's peak flow rate ("Peak Rate") is the maximum rate of flow at which the Project is designed to produce treated drinking water at any point in time, expressed in mgd, without consideration of scheduled maintenance. SSJID operates the Project for purposes of delivery of the Project Allotments to the Project Participants. SSJID has allocated a portion of the Peak Rate to each Project Participant for this purpose. These allocations of Peak Rate correlate to the volumes of the Project Allotments specified in the WSDA's and to the share of the Project's cost which was allocated among the Project Participants based primarily on plant capacity. This relationship is affirmed in, inter alia, Section 14 of the WSDA's.

E. Pursuant to the WSDA's, SSJID treats and delivers the respective Project Allotment to each Project Participant according to a daily delivery schedule determined by the Project Participant and SSJID. SSJID allocates the Flow Rate among the Project Participants as necessary to meet the delivery schedules of the Project Participants. SSJID may exceed a Project Participant's allocation of the Peak Rate, to the extent this does not impact another Project Participant. If, at any time, the Plant is incapable of meeting the scheduled deliveries of one or more Project Participants, SSJID would allocate the available Flow Rate on a pro rata basis according to the Project Participants' shares of the Peak Rate.

F. Lathrop has determined that, because of changed urban growth projections and water use demands in its service area, the allocations of water treatment capacity, conveyance capacity, and water supply in the Project pursuant to the Lathrop WSDA exceed its current and projected needs. Some of the changes include a lower peaking factor, recent and State mandated future water conservation and anticipated use of the City's recycled water supply. These changes have resulted in a reduced need for potable water. As a result, Lathrop has identified that it has a surplus of 1,120 AFY of its Phase 1 Project Allotment. Lathrop has determined that, after implementation of this Purchase and Amendment Agreement, Lathrop's remaining share of Project Allotment, and its share of SSJID's allocation of the Project's Peak Rate that remains after the reduction described below, are sufficient to accommodate its present and future community development.

G. Tracy desires to increase its participation in the Project in order to improve the quality of water delivered to its customers, to decrease the salinity of its wastewater effluent, and to increase its water supply. Tracy intends, with this Purchase and Amendment Agreement, to purchase from Lathrop its right to obtain from SSJID 1,120 acre feet of Project Allotment. In addition, this Purchase and Amendment Agreement provides that, subject to its obligations under the WSDA's, SSJID will, as between Tracy and Lathrop, increase the share of Peak Rate allocated to Tracy, which is presently 15 mgd, by 2.0 mgd, and SSJID will reduce Lathrop's share of Peak Rate by 2 mgd.

H. This transfer is consistent with the WSDA's, which in Section 11 provide for the transfer of Project Allotment and the rights and obligations with respect thereto by one Project Participant to another Project Participant. While SSJID's approval is not required for such a transfer pursuant to Section 11(a), Lathrop and Tracy have invited SSJID's review and agreement in light of its current allocation of the Peak Rate accompanying the transferred Project Allotment. The Peak Rate allocations are an existing attribute of how the Project is operated to deliver the Project Allotments. The Parties acknowledge that such changes and amendments does not affect the allocation of Project costs or the delivery of Project Allotment to Project Participants other than as between Tracy and Lathrop.

I. The purposes of this Purchase and Amendment Agreement are (1) to memorialize Lathrop's conveyance and sale, and Tracy's acquisition and purchase, of 1,120 acre feet per year of Project Allotment, together with the Parties' agreement that SSJID, as between Tracy and Lathrop, reduce Lathrop's share of Peak Rate by 2 mgd and will increase Tracy's share of Peak Rate by 2 mgd; and (2) to effect amendments to the Tracy and Lathrop WSDA's to reflect this transaction.

Therefore, the Parties agree as follows:

AGREEMENT

1. Effective Date; Term.

a. This Purchase and Amendment Agreement shall become effective on the date stated above upon execution by all Parties ("Effective Date".)

b. Provided that this Purchase and Amendment Agreement takes effect, this Purchase and Amendment Agreement shall have the same term as the Lathrop and Tracy WSDA's.

2. Transferred Project Allotment. Lathrop hereby permanently conveys and sells to Tracy, and Tracy hereby acquires and purchases, Lathrop's rights pursuant to the Lathrop WSDA to purchase 1,120 AFY of Project Allotment from SSJID. In connection therewith, Lathrop and Tracy both agree, as between Tracy and Lathrop, to a reduction in Lathrop's share of SSJID's allocation of Peak Rate by, and to an increase in Tracy's share of SSJID's allocation of Peak Rate by, 2 mgd. By execution of this Purchase and Amendment Agreement SSJID hereby acknowledges this re-allocation of a portion of the Project's Peak Rate as between Tracy and Lathrop.

3. Transferred Project Allotment and Lathrop WSDA in Good Standing. Lathrop warrants and represents that up to the Effective Date, it has diligently maintained the Lathrop WSDA as amended, including the Project

Allotment transferred pursuant to this Purchase and Amendment Agreement, in good standing, and has duly made all required payments thereunder in a timely manner.

4. Principal Payment. Within fourteen calendar days after Lathrop provides written notice to Tracy of full execution of this Purchase and Amendment Agreement, including a fully executed copy thereof, Tracy shall pay to Lathrop the sum of five million dollars ($5,000,000), which shall be the full, final and complete payment by Tracy to Lathrop pursuant to this Purchase and Amendment Agreement.

5. Compliance with WSDA's.

a. This Purchase and Amendment Agreement is made pursuant to Section 11 (a) of the WSDA's.
b. Section 17 of the four WSDA's is inapplicable to this Purchase and Amendment Agreement.
c. This Purchase and Amendment Agreement is in full compliance with the WSDA's.

6. Amendments to the WSDA's. The Tracy and Lathrop WSDA's are hereby amended to conform to the following:

a. Lathrop's Project Allotment is 6,887 AFY in Phase I and, subject to all of the terms and conditions of Lathrop's WSDA, 10,671 AFY in Phase II. As between Tracy and Lathrop, SSJID will reduce Lathrop's allocation of Peak Rate by 2 mgd.
b. Tracy's Project Allotment is 11,120 AFY in Phase I and subject to all of the terms and conditions of Tracy's WSDA,11,120 AFY in Phase II. As between Tracy and Lathrop, SSJID will increase Tracy's share of Peak Rate by 2 mgd.

c. All terms and conditions of the Tracy and Lathrop WSDA's, including any previous amendments, which are not specifically modified by this Purchase and Amendment Agreement, shall remain in full force and effect.

7. Costs. Each Party and the Consenting Entity shall bear its own costs associated with this Purchase and Amendment Agreement, except as otherwise specifically provided herein.

8. Attorney Fees. If it shall be necessary for any Party hereto to commence legal action or any other proceeding to enforce the terms and provisions of this Purchase and Amendment Agreement, the non-prevailing Party shall reimburse the prevailing Party for all of the prevailing Party's actual and reasonable expenses and costs incurred in such action or proceeding, including

without limitation reasonable attorneys' fees and the reasonable fees of any experts employed by the prevailing Party in such action or proceeding.

9. SSJID Coordination. Upon and after the Effective Date, SSJID agrees to reflect the changes in the allocation of Peak Rate as between Tracy and Lathrop and Project Allotment, along with the resulting changes to the fixed and variable Project costs for which the Parties are responsible. SSJID further agrees to amend its Project operations, records, and other functions to conform to this Purchase and Amendment Agreement as of the Effective Date.

10. Reciprocal Indemnification.

a. Tracy shall hold harmless, indemnify and defend Lathrop (with counsel of Lathrop's choice) and its members, directors, officers, employees, agents and contractors (collectively "Lathrop's Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable and actual attorneys' fees, arising from or connected with this Purchase and Amendment Agreement and caused by the negligence, gross negligence or intentional misconduct of Tracy, except to the extent caused by the negligence, gross negligence or intentional misconduct of any of Lathrop's Indemnified Parties.

b. Lathrop shall hold harmless, indemnify and defend Tracy (with counsel of Tracy's choice) and its members, directors, officers, employees, agents and contractors (collectively "Tracy's Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable and actual attorneys' fees, arising from or connected with this Purchase and Amendment Agreement and caused by the negligence, gross negligence or intentional misconduct of Lathrop, except to the extent caused by the negligence, gross negligence or intentional misconduct of any of Tracy's Indemnified Parties.

11. Notices. All notices that are required, either expressly or by implication, to be given by any Party or Consenting Entity to the other Party or Consenting Entities under this Agreement shall be delivered, sent by facsimile, or mailed, United States first-class postage prepaid, addressed as follows:

CITY OF TRACY
Director of Public Works
520 Tracy Boulevard
Tracy, California 95376
Phone: (209) 831-6300
Fax: (209) 831-4472

CITY OF LATHROP
Director of Public Works
390 Towne Centre Drive
Lathrop, California 95330
Phone: (209) 941-7430
Fax: (209) 941-7449

SOUTH SAN JOAQUIN IRRIGATION DISTRICT
P.O. Box 747
Ripon, California 95366
Phone: (209) 249-4600
Fax: (209) 249-4640

Notice shall be deemed given (a) two (2) calendar days following mailing via regular or certified mail, return receipt requested, (b) one (1) business day after deposit with any one day delivery service assuring "next day" delivery, (c) upon actual receipt of notice, or (d) upon transmission, if by facsimile to the correct number, whichever is earliest. The Parties and Consenting Entities shall promptly give written notice to each other of any change of address, telephone or fax number, and delivery to the addresses or transmission to the fax numbers stated herein shall be deemed sufficient unless written notification of a change of address or fax number has been received.

12. Successors and Assigns. This Purchase and Amendment Agreement shall be binding upon the successors and permitted assigns of the Parties.

13. No Benefit to Third Parties. There is no intended third party beneficiary of any right or obligation assumed by the Parties. This Purchase and Amendment Agreement is made for the sole benefit of the Parties, and their respective successors and assigns.

14. Entire Agreement. This Purchase and Amendment Agreement constitutes the entire agreement between the Parties, and supersedes any oral agreement, statement or promise relating to the subject matter hereof. Any amendment of this Purchase and Amendment Agreement must be reduced to writing and signed by the Parties to be valid.

15. Controlling Law. The interpretation and performance of this Purchase and Amendment Agreement shall be governed by the laws of the State of California.

16. Construction.

a. The Parties agree that this Purchase and Amendment Agreement is the product of mutual full and fair negotiation. This Purchase and Amendment Agreement shall therefore be interpreted as drafted equally by the Parties.

b. The captions contained in this Purchase and Amendment Agreement are for convenience only and shall not be interpreted so as to change or affect the meaning of the provisions of this Purchase and Amendment Agreement.

c. The Recitals are made a part of this Agreement.

17. Counterparts; Facsimiles. The Parties may execute this Purchase and Amendment Agreement in several counterparts, which shall, in the aggregate, be signed by both Parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. Signatures may be given by facsimile, pdf or other electronic format, or by similar means with the same effect as originals.

18. Cooperation. To the extent reasonably required, each Party to this Purchase and Amendment Agreement shall, in good faith, assist the other in obtaining all necessary approvals as may be applicable to performance of any terms of this Purchase and Amendment Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Purchase and Amendment Agreement as of the Effective Date.

CITY OF LATHROP
a California municipal corporation

Date: _____ By_____
Mayor

ATTEST: APPROVED AS TO FORM:

_____ _____
City Clerk City Attorney, CITY OF LATHROP

Date: _____

CITY OF TRACY,
a California municipal corporation

Date: _____ By_____
Mayor

ATTEST: APPROVED AS TO FORM:

_____ _____
City Clerk City Attorney, CITY OF TRACY

Date: _____

SOUTH SAN JOAQUIN IRRIGATION DISTRICT
a California irrigation district

Date: _____ By_____
President, Board of Directors

ATTEST:

Date: _____ By_____

RESOLUTION _____

RESCINDING RESOLUTION 2013-076; APPROVING THE REVISED LATHROP-TRACY PURCHASE, SALE AND AMENDMENT AGREEMENT, AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE WASTEWATER FUND AND ESTABLISHING A LOAN TO THE WATER FUND IN THE AMOUNT OF $5 MILLION AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, On June 4, 2013, Tracy City Council authorized the water purchase agreement (Resolution 2013-076), and

WHEREAS, The agreement required approval by five agencies, and

WHEREAS, The City of Manteca staff did not move this item forward for consideration, and

WHEREAS, A revised three party agreement has been prepared to allow acquisition by Tracy of two million gallons per day surplus of treated water capacity and 1,120 acre-feet of surplus water supply in the South County Water Supply Project from the City of Lathrop, and

WHEREAS, The City of Lathrop will retain sufficient capacity and water supply for their community needs while proposing to sell Tracy two million gallons per day of surplus capacity and 1,120 acre-feet of surplus water supply, and

WHEREAS, The environmental documents for the South County Water Supply Project were previously approved and the proposed water use in Tracy in-lieu of Lathrop will not divert additional water from the Stanislaus River and no physical facilities are to be constructed, and

WHEREAS, The Lathrop – Tracy Purchase, Sale and Amendment Agreement is not a project as defined by CEQA, and

WHEREAS, The City of Tracy intends to put this additional capacity and water supply to immediate use, and

WHEREAS, The Lathrop-Tracy Purchase Agreement is not effective until reimbursement agreements have been entered into to cover the City's costs and required security has been provided to the City;

NOW, THEREFORE, BE IT RESOLVED that:

1. The City Council rescinds Resolution 2013-076;

2. The City Council authorizes a supplemental appropriation from the Wastewater Fund and establishes a two year loan to the Water Fund in the amount of $5 million with 2.5% interest;

3. The City Council approves the revised Lathrop-Tracy Purchase, Sale and Amendment Agreement, and authorizes the Mayor to execute the agreement; and

4. This Resolution shall be effective only at such time that reimbursement agreements have been entered into to cover the City's costs (and required security has been provided to the City) with all of the following parties: Prologis, L.P.; GBC Global Investments, Inc.; TWL Investors, LLC; R&B Delta, LLC.

* * * * * * * * * * * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the _____ day of _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.F

REQUEST

AUTHORIZATION OF AMENDMENT NO. 22 TO PROFESSIONAL SERVICES AGREEMENT NO. CH8 WITH CH2M HILL FOR PREPARATION OF WASTEWATER TREATMENT PLANT 2013-15 NPDES PERMIT STUDIES AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AMENDMENT

EXECUTIVE SUMMARY

Professional services are required to prepare State mandated NPDES Permit technical studies regarding the Wastewater Treatment Plant and the discharge of treated effluent. The Central Valley Regional Water Quality Control Board renewed the City's NPDES permit for the wastewater treatment plant on December 7, 2012.

DISCUSSION

The City's renewed National Pollutant Discharge Elimination System (NPDES) permit requires technical studies be performed on the City's wastewater. The current permit requires fewer studies than previous permits. Most of the technical reports are annual updates of the previously prepared work plans. The studies include:

- Monitoring and Reporting Program Annual Reports;
- Annual updates to the Salinity Reduction Plan;
- Annual updates to the Mercury Pollution Prevention Plan;
- Annual updates to the Salinity Best Practical Control Technology Evaluation;
- Interim Effluent and Receiving Water Characterization Study;
- Ongoing work on the computerized Capacity Maintenance and Management System (CMMS).

Professional services are required to perform these studies. This work is a continuation of studies, many of which commenced in 2008. A proposal was requested from CH2M Hill. The scope of services is for the second through fourth years of the studies required for the five year term of the NPDES permit. As this work is a continuation of previously prepared work performed by CH2M Hill, staff recommends the City Council determine the formal request for proposal procedure is not in the best interest of the City for these studies. In order to minimize costs, City staff performs all water quality monitoring and sampling using the City water quality laboratory or through contract services.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's four strategic plans.

FISCAL IMPACT

There is no fiscal impact to the General Fund as all expenses are related to the Wastewater Enterprise Fund. The projected cost of the professional services is $335,360 and adequate funding is available in the approved City budget as CIP 74100, NPDES Permit Technical Studies. The NPDES studies performed during Fiscal Year 2012-13 were included in Amendment No. 21 approved by City Council on February 19, 2013.

RECOMMENDATION

That City Council, by resolution, determine the formal request for proposals procedure is not in the best interest of the City in this instance, and authorize Amendment No. 22 to Professional Services Agreement No. CH8 with CH2M Hill for preparation of Wastewater Treatment Plant 2013-15 NPDES Permit Studies, and authorize the Mayor to execute the amendment.

Prepared by: Steve Bayley, Project Specialist

Approved by: Rod Buchanan, Interim Director of Public Works

Approved by: R. Leon Churchill, Jr., City Manager

Attachment: Amendment No.22 to PSA No. CH8 with CH2M Hill Inc.

CITY OF TRACY
AMENDMENT NUMBER 22 TO
PROFESSIONAL SERVICES AGREEMENT No. CH8

CITY OF TRACY WASTEWATER TREATMENT PLANT NPDES PERMIT STUDIES

This Amendment No. 22 to the referenced agreement is made and entered into by and between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and CH2M HILL Inc, (hereinafter "CONSULTANT").

RECITALS

A. CONSULTANT services are needed for preparation of water quality studies required by the City of Tracy Wastewater Treatment Plant's 2012 NPDES Permit.

B. Pursuant to Resolution No. 99-104, the Tracy City Council authorized the execution of a Professional Services Agreement ("Agreement") with CONSULTANT.

C. City Council has authorized Amendments 1 through 21 to the Agreement to address ongoing wastewater and other utility system related work. Previous NPDES permit required similar studies and this is a continuation of the previously started water quality studies that are required by the newly adopted NPDES permit for Tracy Wastewater Treatment Plant.

D. At the request of CITY and in compliance with the provisions of the Tracy Municipal Code, Chapter 2.20, CONSULTANT submitted a proposal to perform the additional services described in this Amendment 22 to the referenced Agreement. After negotiations between CITY and CONSULTANT, the parties have reached agreement for the performance of services in accordance with the terms set forth in this Amendment 22. On August 6, 2013, the City Council authorized the execution of this Amendment, pursuant to Resolution No. 2013-_____.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. INCORPORATION OF PROFESSIONAL SERVICES AGREEMENT. This Amendment 22 hereby incorporates by reference all terms and conditions set forth in the Professional Services Agreement for this project, unless specifically modified by this Amendment 22.

2. SCOPE OF SERVICES. CONSULTANT shall perform the additional services described in Exhibit "A" attached hereto and incorporated herein by reference.

3. TIME OF PERFORMANCE. CONSULTANT shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit "A".

4. COMPENSATION. For the additional services performed by CONSULTANT in accordance with this Amendment 22 to the Professional Services Agreement, CITY shall pay CONSULTANT $335,360 on a on a time and material basis, developed in substantial part based on the billing rates set forth in Exhibit "B," attached hereto and incorporated herein by reference. CONSULTANT shall, in substantial part, perform the work with the personnel classifications listed with those classifications providing, in substantial part, the same number of hours shown in Exhibit "C" (the budgeted hours), attached hereto and incorporated herein by reference.

5. SIGNATURES. The individuals executing this Amendment 22 represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment 22 to the Professional Services Agreement No. CH8 on behalf of the respective legal entities of CITY and CONSULTANT.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY

By: Brent H. Ives
Title: MAYOR

Date: _____

Attest:

By: Sandra Edwards
Title: CITY CLERK

Date: _____

Approved As To Form:

By: Daniel G. Sodergren
Title: CITY ATTORNEY

Date: _____

CONSULTANT
CH2M HILL Inc.

By: Vijay Kumar, P.E.
Title: Vice President

Date: 7/23/13
Fed. Employer ID No. 59-0918189

By: Allan Highstreet
Title: Vice President

Date: _____

RESOLUTION _____

AUTHORIZING OF AMENDMENT NO. 22 TO PROFESSIONAL SERVICES AGREEMENT NO. CH8 WITH CH2M HILL FOR PREPARATION OF WASTEWATER TREATMENT PLANT 2013-15 NPDES PERMIT STUDIES AND AUTHORIZING FOR THE MAYOR TO EXECUTE THE AMENDMENT

WHEREAS, The Central Valley Regional Water Quality Control Board renewed the City's NPDES permit for the wastewater treatment plant on December 7, 2012, and

WHEREAS, The scope of services is for the second through fourth years of the studies required for the five year term of the NPDES permit, and

WHEREAS, The projected cost of the professional services is $335,360 and adequate funding is available in the approved City budget as CIP 74100, NPDES Permit Technical Studies, and

WHEREAS, The NPDES studies performed during Fiscal Year 2012-13 were included in Amendment No. 21 approved by City Council on February 19, 2013;

NOW, THEREFORE, BE IT RESOLVED, That the City Council:

1) Determines the formal request for proposals procedure is not in the best interest of the City in this instance; and

2) Authorize Amendment No. 22 to Professional Services No. CH8 Hill for preparation of Wastewater Treatment Plan 2013-15 NPDES Permit Studies and authorize the Mayor to execute the amendment.

* * * * * * * * * * * * *

The foregoing Resolution_____ was passed and adopted by the Tracy City Council on the _____ day of _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.G

REQUEST

ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN TERMS AND CONDITIONS OF ACCEPTING AIRPORT IMPROVEMENT PROGRAM GRANTS; EXECUTE GRANT AGREEMENTS AIP #3-06-0259-014-2013 AND AIP #3-06-0259-015-2013 IN THE AMOUNT OF $600,000 WITH THE FEDERAL AVIATION ADMINISTRATION FOR AN UPDATE TO THE AIRPORT LAYOUT PLAN, REIMBURSEMENT FOR A PAVEMENT MAINTENANCE AND MANAGEMENT PLAN, AND REIMBURSEMENT FOR ENGINEERING AND DESIGN WORK ON THE AIRPORT PAVEMENT PROJECT

EXECUTIVE SUMMARY

City Council has directed staff to seek funding to address pavement conditions at the Tracy Municipal Airport. Council has previously approved the work on a Pavement Maintenance and Management Plan (PMMP) and the engineering and design of the rehabilitation of all pavements at the airport. Staff has submitted grant applications to the FAA for the use of the City's entitlement funding to cover the cost of the PMMP, the airport pavement engineering and design, and to update the Airport Layout Plan.

DISCUSSION

The Federal Aviation Administration (FAA) classifies the City as the "sponsor" of the Tracy Municipal Airport. As an airport sponsor, the City applies for and administers airport grants and contracts. Council has already approved the City's airport consultant to complete a Pavement Maintenance and Management Plan (PMMP) and begin the design and engineering of the pavement rehabilitation at the airport. Through the current design process of the rehabilitation of the airport pavements, the FAA has indicated that they would like the City to also update its Airport Layout Plan (ALP) due to the changes being made to the airport pavement.

The FAA Airport Improvement Entitlement Program (AIP), currently funds approved projects at ninety percent (90%). The City is pursuing non-competitive funding in the amount of $600,000 to fund an updated ALP, reimbursement for the PMMP, and reimbursement for engineering and design services for pavement rehabilitation at the Tracy Municipal Airport. The matching funds for these projects were approved as part of the Fiscal Year 2013/2014 budget.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's strategic plans.

FISCAL IMPACT

There is no impact to the General Fund for approval of this grant. Matching funds of $60,000 have already been appropriated through the Fiscal Year 2013/2014 Capital Improvement Project budget process. Where available the City will also seek additional funds from Caltrans Division of Aeronautics to satisfy the five percent match requirement.

RECOMMENDATION

That the City Council adopt a resolution authorizing the City Manager to sign Terms and Conditions of Accepting Airport Improvement Program Grants; execute grant agreements AIP No. 3-06-0259-014-2013 and AIP No. 3-06-0259-015-2013 in the amount of $600,000 with the Federal Aviation Administration for an update to the Airport Layout Plan, reimbursement for a Pavement Maintenance and Management Plan, and reimbursement for engineering and design work on the airport pavement project.

Prepared by: Ed Lovell, Management Analyst II
Reviewed by: Rod Buchanan, Interim Director of Public Works
Approved by: R. Leon Churchill, Jr., City Manager

RESOLUTION _____

AUTHORIZING THE CITY MANAGER TO SIGN TERMS AND CONDITIONS OF ACCEPTING AIRPORT IMPROVEMENT PROGRAM GRANTS; EXECUTE GRANT AGREEMENTS AIP #3-06-0259-014-2013 AND AIP #3-06-0259-015-2013 IN THE AMOUNT OF $600,000 WITH FEDERAL AVIATION ADMINISTRATION FOR AN UPDATE TO THE AIRPORT LAYOUT PLAN, REIMBURSEMENT FOR A PAVEMENT MAINTENANCE AND MANAGEMENT PLAN, AND REIMBURSEMENT FOR ENGINEERING AND DESIGN WORK ON THE AIRPORT PAVEMENT PROJECT

WHEREAS, The Federal Aviation Administration of the United States of America (FAA) classifies the City of Tracy (the "City") as the "sponsor" of the Tracy Municipal Airport and as such the City is responsible for applying for and administering airport grants and contracts; and

WHEREAS, The FAA Airport Improvement Entitlement Program currently funds approved projects at ninety percent; and

WHEREAS, The City is pursuing the non-competitive funding in the amount of $600,000 to cover an update to the Airport Layout Plan, reimbursement for a Pavement Maintenance and Management Plan, and reimbursement for engineering and design work on the airport pavement project; and

WHEREAS, Execution of the above-mentioned grant agreement will result in an obligation of the City to provide matching funds of up to $60,000 which have already been appropriated through the Fiscal Year 2013/2014 Capital Improvement Project budget process;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy authorizes the City Manager to sign the Terms and Conditions of Accepting Airport Improvement Grants; execute Grant Agreements AIP#3-06-0259-014-2013 and AIP#3-06-0259-015-2013 in the amount of $600,000 with Federal Aviation Administration for an update to the Airport Layout Plan, reimbursement for a Pavement Maintenance and Management Plan, and reimbursement for engineering and design work on the airport pavement project.

* * * * * * * * * * * * *

The foregoing Resolution_____ was passed and adopted by the Tracy City Council on the _____ day of _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.H

REQUEST

APPROVAL OF TASK ORDER NO. 3 WITH R.W. BRANDLEY, CONSULTING AIRPORT ENGINEER, FOR AN UPDATE OF THE AIRPORT LAYOUT PLAN FOR THE TRACY MUNICIPAL AIRPORT REQUIRED FOR IMPLEMENTATION OF A FEDERAL AVIATION GRANT, AUTHORIZE THE MAYOR TO EXECUTE THE TASK ORDER, AUTHORIZE USE OF $79,650 FROM THE AIRPORT FUND FOR THE COMPLETION OF THE TASK ORDER UNTIL REIMBURSEMENT FROM THE FEDERAL AVIATION ADMINISTRATION

EXECUTIVE SUMMARY

The Tracy Airport has experienced issues with the pavement on the runways and taxiways. To address the issues the City has hired an Airport Consultant. A pavement maintenance and management study has been conducted by the consultant with a recommendation that the pavement issues be addressed by reconstructing all pavements at the Tracy Municipal Airport. During the design process, the Federal Aviation Administration indicated that due to the extensive changes at the airport as a result of the runway project a new Airport Layout Plan would need to be completed prior to construction.

DISCUSSION

The City of Tracy routinely uses an Airport Consultant for work on larger projects at the Tracy Municipal Airport. As an Airport Sponsor, the City is required to go out to bid for a new Airport Consultant every five years. On October 2, 2012, the City Council approved the hiring of Reinard W. Brandley as the City's Airport Consultant. The previous task order approved by Council was to design the pavement rehabilitation project at the airport. Through this process, the FAA has indicated that due to the extensive changes that were going to take place with the reconstruction of the runways and taxiways that the ALP for the Tracy Municipal Airport would need to be updated prior to any construction.

Reinard W. Brandley has submitted a proposal with a lump sum cost of $79,650 to update the ALP which will include the following:

- Project Scoping
- Airport Requirements
- Reports and Engineering
- ALP Updated Plans
- Coordination and Responding to FAA Reviews

The FAA will pay for 90% of the total cost spent on this project by the City. A matching amount of 10% of the total cost is required from the City. As this is part of Phase 1 of the

pavement construction, Council has already approved the use of matching funds as part of the FY13/14 CIP budget process.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the City's strategic plans.

FISCAL IMPACT

There will be no impact to the General Fund. The matching funds for this project were already approved by City Council during the FY13/14 CIP budget process. The Airport Fund would pay for up to $79,650 for the completion of Task Order No. 3 to the Master Professional Services Agreement. The money paid for the service out of the Airport Fund would be reimbursed by the FAA.

RECOMMENDATION

That the City Council approve Task Order No. 3 with R.W. Brandley, Consulting Airport Engineer, for an updated Airport Layout Plan required for implementation of Federal Aviation Grants, authorize the Mayor to execute the Task Order, authorize the use of $79,650 from the Airport Fund for the completion of Task Order No. 3 until reimbursement by the Federal Aviation Administration.

Prepared by: Ed Lovell, Management Analyst II, Public Works

Reviewed by: Rod Buchanan, Interim Director of Public Works
Kul Sharma, City Engineer

Approved by: R. Leon Churchill, Jr., City Manager

Attachment A – City of Tracy Task Order No. 3 to Master Professional Services Agreement Between the City of Tracy and R.W. Brandley

CITY OF TRACY TASK ORDER NO. 3 TO MASTER PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND R. W. BRANDLEY

THIS Task Order is made and entered into by and between the CITY OF TRACY, a municipal corporation ("CITY"), and R.W. Brandley, "CONSULTANT").

RECITALS

A. CONSULTANT's services are needed for Engineering Design Services for an update of the Airport Layout Plan for the Tracy Municipal Airport.

B. The CITY, as an Airport Sponsor, followed FAA requirements for the Airport Consultant selection process in accordance with FAA Advisory Circular # AC-150/1500-14C.

C. CITY and CONSULTANT, after negotiation, have reached an agreement for the performance of services in accordance with the terms set forth in this Task Order.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION OF MASTER AGREEMENT.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Agreement for this project, unless specifically modified by this Task Order.

2. **SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference.

3. **TIME OF PERFORMANCE.** CONSULTANT shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit "A."

4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CITY shall pay CONSULTANT, on a lump sum basis, a Not to Exceed amount of $79,650 as set forth in Table 1 of Exhibit "A".

5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and the CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY

_____

By: Brent Ives
Title: Mayor

Date: _____
Attest:

Reinard W. Brandley

Reinard W. Brandley

By: Reinard W. Brandley
Title: Owner

Date: 7-31-13

_____
By: Sandra Edwards
Title: City Clerk

Date: _____

Approved As To Form:

_____
By: Bill Sartor
Title: Assistant City Attorney

Date: _____

Exhibit "A"

A. SCOPE OF WORK.

CONSULTANT shall perform the following work:

1. **Project Scoping** – CONSULTANT shall meet with City staff to review the current and future goals and needs of the airport. This item will include determination of limitations and restrictions to development and the requirements for development of the airport over the next 20 years.

2. **Airport Requirements** – CONSULTANT shall provide a detailed inventory of existing facilities and aviation forecasts for the next 20 years including based aircraft, aircraft operations, peaking, and determination of the critical aircraft for design purposes. This item will also include CONSULTANT providing a demand/capacity analysis to determine the facilities required to meet forecast demands.

3. **Reports and Engineering** – CONSULTANT shall provide a detailed Airport Layout Plan Narrative, which summarizes all the data acquired and developed together with recommendations for development of the airport. CONSULTANT shall provide estimates of probable construction costs of each development and a preliminary financial plan.

4. **ALP Updated Plans** – CONSULTANT shall provide a detailed set of Airport Layout Plans, which will include, as a minimum, an Airport Layout Plan, Terminal Area Plan, Airport Airspace Drawing, Approach Surface Plans, ALUC Airport Safety Zone Plan, and an Airport Property Map.

5. **Coordination and Responding to FAA Reviews** – During the development of the Airport Layout Plan Narrative and ALP Updated Plans, CONSULTANT shall coordinate with the City and FAA on a frequent basis. CONSULTANT shall submit preliminary copies of the ALP Updated Plans and Narrative to the FAA for review, and shall address all review comments in the preparation of the final narrative and plans.

B. TIME OF PERFORMANCE.

CONSULTANT shall complete the above listed work by no later than twelve months from the date of the fully executed agreement.

C. COMPENSATION.

CONSULTANT will be compensated for conducting the above listed work as shown on Table 1, attached, for a total not to exceed $79,650.

TABLE NO. 1
TRACY MUNICIPAL AIRPORT
AIRPORT LAYOUT PLAN NARRATIVE INCLUDING
ALP UPDATED PLANS

PROPOSAL FOR ENGINEERING SERVICES
BREAKDOWN OF ENGINEERING FEES

Project Scoping

Principal Engineer - R. W. Brandley	11 Hrs. @ $250	$ 2,750.00	
Senior Engineer	8 Hrs. @ $125	1,000.00	
Senior Drafter	5 Hrs. @ $90	450.00	
Project Administrator	6 Hrs. @ $80	480.00	
Mileage	800 Miles @ $0.40	320.00	
Total Project Scoping			$ 5,000.00

Airport Requirements - Includes Inventory, Aviation Forecasts, Demand Capacity Analysis, and Facility Requirements Determination

Principal Engineer - R. W. Brandley	44 Hrs @ $250	$ 11,000.00	
Senior Engineer	40 Hrs. @ $125	5,000.00	
Senior Drafter	20 Hrs. @ $90	1,800.00	
Project Administrator	20 Hrs. @ $80	1,600.00	
Total Airport Requirements			19,400.00

Reports and Engineering

Principal Engineer - R. W. Brandley	25 Hrs. @ $250	$ 6,250.00	
Senior Engineer	16 Hrs. @ $125	2,000.00	
Senior Drafter	15 Hrs. @ $90	1,350.00	
Project Administrator	15 Hrs. @ $80	1,200.00	
Printing, Postage, Supplies, etc.		1,200.00	
Total Reports and Engineering			12,000.00

ALP Updated Plans

Principal Engineer - R. W. Brandley	50 Hrs. @ $250	$ 12,500.00	
Senior Engineer	80 Hrs. @ $125	10,000.00	
Senior Drafter	110 Hrs. @ $90	9,900.00	
Project Administrator	20 Hrs. @ $80	1,600.00	
Printing, Postage, Supplies, etc.		1,050.00	
Total ALP Updated Plans			35,050.00

Coordination and Responses to F.A.A. Reviews

Principal Engineer - R. W. Brandley	21 Hrs. @ $250	$ 5,250.00	
Senior Engineer	10 Hrs. @ $125	1,250.00	
Senior Drafter	10 Hrs. @ $90	900.00	
Project Administrator	10 Hrs. @ $80	800.00	
Total Coordination & Responses to F.A.A. Reviews			8,200.00
Total Proposal			$ 79,650.00

RESOLUTION _____

AUTHORIZING TASK ORDER 3 WITH R.W. BRANDLEY FOR AN UPDATE OF THE AIRPORT LAYOUT PLAN FOR THE TRACY MUNICIPAL AIRPORT REQUIRED FOR IMPLEMENTATION OF A FEDERAL AVIATION GRANT, AUTHORIZING THE MAYOR TO EXECUTE THE TASK ORDER, AUTHORIZING USE OF $79,650 FROM THE AIRPORT FUND FOR THE COMPLETION OF THE TASK ORDER UNTIL REIMBURSEMENT FROM THE FEDERAL AVIATION ADMINISTRATION

WHEREAS, The City of Tracy routinely uses an Airport Consultant for work on larger projects at the Tracy Municipal Airport and as an Airport Sponsor, is required to go out to bid for a new Airport Consultant every five years, and

WHEREAS, On October 2, 2012, City Council approved the hiring of Reinard W. Brandley as an Airport Consultant, and

WHEREAS, Staff has negotiated an agreement with the Airport Consultant to perform the services and tasks necessary to carry out terms outlined in Task Order No. 3 to prepare an updated Airport Layout Plan for the Tracy Municipal Airport for a cost of $79,650, which will be paid for by the FAA, and

WHEREAS, The City of Tracy is required to pay a matching amount of 10% of the project costs which has already been approved by City Council during the FY13/14 CIP budget process, and

WHEREAS, to begin Task Order No. 3, $79,650 is needed from the Airport Fund to cover expenses until funds can be drawn down from an FAA grant at which time the money will be reimbursed to the Airport Fund.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The City Council of the City of Tracy does hereby authorize Task Order 3 with R.W. Brandley for an updated Airport Layout Plan required for implementation of a Federal Aviation Grant, referred to above, and authorizes the Mayor to execute the Task Order; and

2. The City Council of the City of Tracy does hereby authorize the use of $79,650 from the Airport Fund to be used for the completion of Task Order No. 3 until reimbursement from the FAA.

* * * * * * * * * * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the _____ day of _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.I

REQUEST

AWARD A PROFESSIONAL SERVICES AGREEMENT (PSA) NO. DE 2 WITH DOKKEN ENGINEERING TO PROVIDE PROFESSIONAL SERVICES TO PREPARE PROJECT APPROVAL AND ENVIRONMENTAL DOCUMENTS (PA & ED) FOR THE I-205 / CHRISMAN ROAD NEW INTERCHANGE PROJECT CIP 73109, FEDERAL NO. HPLULN-5192 (034), FOR A NOT-TO-EXCEED AMOUNT OF $826,919, AUTHORIZE THE DIRECTOR OF DEVELOPMENT SERVICES TO ACQUIRE ADDITIONAL SERVICES IF NEEDED UP TO AN AMOUNT OF $80,000, AUTHORIZE TRANSFER OF $239,838 FROM CIP 73014 TO 73109, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

The City of Tracy is receiving Federal Funds for the Project Initiation Development (PID) phase, which includes project approval / environmental document for the I-205/Chrisman Road New Interchange Project along I-205 Highway – CIP 73109. Due to work load constraints and staffing limitations, services of a qualified consultant are necessary to complete this work.

DISCUSSION

The City's General Plan identifies a new interchange at I-205 with an intersection proposed at Chrisman Road / Paradise Road. The interchange will serve the east side area of Tracy including future phase of Northeast Industrial Area (NEI). Since interchange projects on highways and freeways involve extensive coordination and approval from various state and federal agencies, including Caltrans and Federal Highway Administration, the approval process takes a number of years before construction can start. The first phase of PID, which includes a Project Study report / Project Development Study, has been completed and was approved by Caltrans in November 2012. The proposed PSA will initiate the second phase of PID, which involves the completion of PA & ED.

Requests for Proposals (RFP) to provide services to complete this phase of work were solicited from various consultants in accordance with the City of Tracy Municipal Code, Section 2.20 "Request for Proposals" (RFP) from qualified consultants and advertised on the City's website. Staff received three proposals from qualified engineering consultants:

1. NV5 Beyond Engineering, Inc. San Jose, CA
2. WMH Corporation, San Jose, CA
3. Dokken Engineering, Folsom, CA

City staff and a Caltrans representative evaluated the proposals, and Dokken Engineering was found to be the most qualified consultant based on their project approach, understanding, and experience with similar projects.

Staff negotiated with Dokken Engineering to provide the required services for this project on a time and material basis, for an amount not to exceed $826,919. Additional funding is required to be transferred into this CIP to complete this task. Unused funds totaling $239,838 are available from the Corral Hollow Road Widening Project between Grant Line Road and the West Valley Mall Entry, CIP 73014. The Corral Hollow Road Project has been completed and grant funds were used for construction of the project resulting in available surplus funds from that project.

Due to the stringent requirements of Caltrans and the Federal Highway Authority, and due to the complexity of the environmental documentation for interchange projects, staff is recommending establishing a contingency in the amount of $80,000 for additional services, if needed, which can be authorized by the Development Services Director.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's four strategic plans.

FISCAL IMPACT

There will be no fiscal impact to the General Fund. The project is funded from Transportation Enhancement Act (TEA) Grant Fund 313 with 20% matching funds from the City.

A total of $800,000 was allocated to this project from the TEA funds, with a minimum 20% of the total cost as matching funds from the City. Approximately $132,000 has been spent on previous design work for this interchange. A transfer of unused funds of $239,838 is needed from the already completed Corral Hollow Road Widening Project north of Grant Line Road - CIP 73014, with status of funds as follows:

- Available Funds in this CIP 73109 $668,000
- Transfer of funds from CIP 73014 to CIP 73109 (23%) $239,838
- Total funds after transfer (23%) $907,838

RECOMMENDATION

That City Council, by resolution, approve Professional Services Agreement No. DE 2 with Dokken Engineering of Folsom, California, for an amount not to exceed $826,919, to provide professional services for the preparation of Project Approval and Environmental Document (PA & ED) for the I-205 Chrisman Road New Interchange Project – CIP 73109, Federal No. HPLULN-6192 (034), authorize the Director of Development Services to acquire additional services and execute the PSA amendments if needed up to an amount of $80,000, and authorize the Mayor to execute the Agreement.

Prepared by: Zabih Zaca, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer
Andrew Malik, Development Services Director

Approved by: R. Leon Churchill, Jr., City Manager

ATTACHMENT: Exhibit 1 - PSA

Exhibit 1

CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT
FOR DESIGN PROFESSIONALS
PROJECT APPROVAL (PA) AND ENVIRONMENTAL DOCUMENT (ED) FOR
I-205/CHRISMAN ROAD NEW INTERCHANGE
CIP 73109, Federal Project HPLULN-5192 (034)

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter "Agreement") is made and entered into by and between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and **DOKKEN ENGINEERING** (hereinafter "CONSULTANT").

RECITALS

A. CONSULTANT is a registered professional engineer.

B. CONSULTANT services are needed to complete Project Approval (PA) and an Environmental Document (ED) to construct a new interchange along I-205 between MacArthur Drive and Paradise Road CIP 73109 (herein after "Project").

C. On March 18, 2013 the City issued a Request For Proposals for design services of Project. At the request of CITY, on April 18, 2013, CONSULTANT submitted its proposal to perform the services described by this Agreement. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement. On August 6, 2013, the City Council authorized the execution of this Agreement, pursuant to Resolution No. 2013-_____.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF SERVICES.** Consultant shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. The services shall be performed by, or under the direct supervision of, CONSULTANT's Authorized Representative: **Juann Ramos.** CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT replace any of the personnel listed in Exhibit "A," nor shall CONSULTANT use any subcontractors or subconsultants, without the prior written consent of the CITY.

2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. CONSULTANT shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CONSULTANT shall submit all requests for extensions of time to the CITY in writing

no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. CITY shall grant or deny such requests at its sole discretion.

3. **INDEPENDENT CONTRACTOR STATUS.** CONSULTANT is an independent contractor and is solely responsible for all acts of its employees, agents, or subconsultants, including any negligent acts or omissions. CONSULTANT is not CITY's employee and CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless the CITY provides prior written authorization to CONSULTANT. Contractors and CONSULTANTS are free to work for other entities while under contract with the CITY. Contractors and CONSULTANTS are not entitled to CITY benefits.

4. **CONFLICTS OF INTEREST.** CONSULTANT (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. In the event that CONSULTANT maintains or acquires such a conflicting interest, any contract (including this Agreement) involving CONSULTANT's conflicting interest may be terminated by the CITY.

5. **COMPENSATION.**
   - **5.1.** For services performed by CONSULTANT in accordance with this Agreement, CITY shall pay CONSULTANT on a time and expense basis, at the billing rates set forth in Exhibit "B," attached hereto and incorporated herein by reference. CONSULTANT's fee for this Agreement is Not To Exceed **EIGHT HUNDRED TWENTY SIX THOUSAND NINE HUNDRED NINETEEN DOLLARS ($826,919)**. CONSULTANT's billing rates shall cover all costs and expenses of every kind and nature for CONSULTANT's performance of this Agreement. No work shall be performed by CONSULTANT in excess of the Not To Exceed amount without the prior written approval of the CITY.
   - **5.2.** CONSULTANT shall submit monthly invoices to the CITY describing the services performed, including times, dates, and names of persons performing the service.
   - **5.3.** Within thirty (30) days after the CITY's receipt of invoice, CITY shall make payment to the CONSULTANT based upon the services described on the invoice and approved by the CITY.

6. **TERMINATION.** The CITY may terminate this Agreement by giving ten (10) days written notice to CONSULTANT. Upon termination, CONSULTANT shall give the CITY all original documents, including preliminary drafts and supporting documents, prepared by CONSULTANT for this Agreement. The CITY shall pay CONSULTANT for all services satisfactorily performed in accordance with this Agreement; up to the date notice is given.

7. **OWNERSHIP OF WORK.** All original documents prepared by CONSULTANT for this Agreement, whether complete or in progress, are the property of the CITY, and shall be given to the CITY at the completion of CONSULTANT's services, or upon demand from the CITY. No such documents shall be revealed or made available by CONSULTANT to any third party without the prior written consent of the City.

8. **ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

9. **INDEMNIFICATION.** CONSULTANT shall indemnify, defend, and hold harmless the CITY (including its elected officials, officers, agents, volunteers, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of CONSULTANT in the performance of services under this Agreement.

10. **BUSINESS LICENSE.** Prior to the commencement of any work under this Agreement, CONSULTANT shall obtain a City of Tracy Business License.

11. **INSURANCE.**
    - **11.1. General.** CONSULTANT shall, throughout the duration of this Agreement, maintain insurance to cover CONSULTANT, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
    - **11.2. Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than $2,000,000 general aggregate and $1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
    - **11.3. Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.
    - **11.4. Workers' Compensation** coverage shall be maintained as required by the State of California.
    - **11.5. Professional Liability** "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of CONSULTANT in an amount not less than $1,000,000 per claim.
    - **11.6. Endorsements.** CONSULTANT shall obtain endorsements to the automobile and commercial general liability with the following provisions:
      - **11.6.1** The CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

11.6.2 For any claims related to this Agreement, CONSULTANT's coverage shall be primary insurance with respect to the CITY. Any insurance maintained by the CITY shall be excess of the CONSULTANT's insurance and shall not contribute with it.

11.7. **Notice of Cancellation.** CONSULTANT shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the CITY should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

11.8. **Authorized Insurers.** All insurance companies providing coverage to CONSULTANT shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

11.9. **Insurance Certificate.** CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five (5) days after the execution of this Agreement.

11.10. **Substitute Certificates.** No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, CONSULTANT shall provide a substitute certificate of insurance.

11.11. **CONSULTANT's Obligation.** Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever (including indemnity obligations under this Agreement), and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.

12. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated, without the written consent of the CITY. Any attempt to assign or delegate this Agreement without the written consent of the CITY shall be void and of no force and effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.

13. **NOTICES.**

13.1 All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective party as follows:

To CITY:
Zabih Zaca
Senior Civil Engineer
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

To CONSULTANT:
Juann Ramos
Dokken Engineering
110 Blue Ravine Road
Suite 200
Folsom, CA 95630

13.2 Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

14. MODIFICATIONS. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

15. WAIVERS. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

16. SEVERABILITY. In the event any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.

17. JURISDICTION AND VENUE. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

18. ENTIRE AGREEMENT. This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed for this project. This Agreement supersedes all prior negotiations, representations, or agreements.

19. COMPLIANCE WITH THE LAW. CONSULTANT shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.

20. STANDARD OF CARE. Unless otherwise specified in this Agreement, the standard of care applicable to CONSULTANT's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

21. SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY

_____

By: Brent H. Ives
Title: MAYOR
Date: _____

Attest:

_____

By: Sandra Edwards
Title: CITY CLERK
Date: _____

Approved As To Form:

_____

By: Daniel G. Sodergren
Title: CITY ATTORNEY
Date: _____

CONSULTANT
Dokken Engineering

_____

By: Richard T. Liptak
Title: President
Date: 7/17/13
Fed. Employer ID No. 68-0099664

_____

By: Cathy Chan
Title: Corporate Secretary
Date: 7/17/2013

EXHIBIT A
SCOPE OF SERVICES

The CITY proposes to construct a new interchange along I-205 between MacArthur Drive and I-5. The proposed project would serve the increase in forecasted traffic demand caused by land development in surrounding areas. A Project Report (PR) and Environmental Document (ED) document will be prepared as part of this Project. The project is funded by San Joaquin Council of Governments - Federal Transportation Improvement Program and thus requires compliance to federal and state standards.

The project scope of services shall include, but is not limited to the following:

I. CITY'S AUTHORIZED REPRESENTATIVES. CONSULTANT shall be required to coordinate with various City Engineering Division staff. CONSULTANT shall take all direction from CITY through the CITY's Authorized Representative, the Project Manager, with the City Engineer as an alternate, unless otherwise designated by the City Manager.

II. OVERVIEW OF SCOPE OF SERVICES. As specified in this Agreement, CONSULTANT shall complete Project Approval (PA) and an Environmental Document (ED). The components of PA/ED for the PROJECT includes the following:

A. Determine project alternative alignments.

B. Prepare technical studies

C. Prepare preliminary engineering studies

D. Preparation of an Environmental Document.

E. Preparation of a Project Report.

Task 1: PROJECT MANAGEMENT

The CONSULTANT shall provide professional and technical management services during the preparation of the Project Report and Environmental Document.

Task 1.1 Kick-off Meeting Notice, Agenda, Minutes – An initial meeting between the CITY and CONSULTANT shall be held to discuss project delivery specifics schedule and timetable to be used. This meeting may include representatives from the City, CONSULTANT, subconsultants, and other involved agencies. A Project Kick Off Meeting will be held following the Notice to Proceed. The primary meeting objectives will be to present the project, its goals, review the project scope and action item list, explain the project schedule, identify key project

issues, and facilitate a general exchange of views and ideas regarding the completion of the project.

Task 1.2 Monthly PDT Notice, Agenda, & Minutes – CONSULTANT shall coordinate and hold "Project Development Team (PDT)" meetings at the location of the City's choosing. The Project Manager will facilitate the meeting and have any needed specialty engineering personnel present to inform the County of project issues. CONSULTANT shall prepare and distribute meeting notices and agendas. Meeting minutes will be provided to the City after the meeting.

Task 1.3 Monthly Progress Report and Project Schedule – CONSULTANT shall prepare monthly progress reports and project schedule. Monthly progress reports will include work performed and work to be performed on a monthly basis. Also, incudes percent project completion for the month and overall project. The baseline schedule shall be prepared in Microsoft Project. Regular updates shall be sent to the City with the monthly invoice.

Task 1.4 Stakeholder Coordination – CONSULTANT shall coordinate with interested agencies (City, Caltrans, FHWA, etc.) that may need to review documents at appropriate times during the project development and approval process. CONSULTANT shall maintain coordination with these interested agencies and maintain City Project Manager informed. CONSULTANT shall conduct up to three (3) public meetings to present project, receive public input, and meet project stakeholders.

Task 1.5 Quality Control Plan – CONSULTANT shall implement a quality control procedure for report activities, perform in-house quality control reviews for each task and submit project documents to the City.

Deliverables:

- Final Schedule (hard copy and 11 x 17 pdf)
- PDT and Stakeholders List (8.5 x 11 pdf)
- Kick-off Meeting Agenda and Meeting Notes (Word file and 8.5 x 11 pdf)
- Invoices (8.5 x 11 hard copy)
- Progress Reports (8.5 x 11 hard copy)

NOT TO EXCEED COST FOR THIS TASK: $110,898

Task 2: TOPOGRAPHIC SURVEY

Task 2.1 Topographic Mapping

Task 2.1.1 Set Photo Control – CONSULTANT shall set aerial control panels at locations and frequency adequate to meet National Mapping Accuracy Standards of 1"=100' scale mapping with 2' contour intervals.

Task 2.1.2 Topographic Mapping – CONSULTANT shall prepare topographic mapping to a scale of 1"=100' with 2' contours and shall show all visible surface features, contours and spot elevations within the mapping limits.

Task 2.1.3 Digital Orthophotography – CONSULTANT shall obtain digital color photo background imagery utilizing the aerial photography. The imagery shall be adjusted using orthocorrection within the mapping limits, and simple rectification within the ground control limits.

Task 2.1.4 Supplemental Field Mapping – CONSULTANT shall perform field survey to supplement the aerial topographic mapping at conforms, tie-ins, potential conflicts, etc.

Deliverables:
- Topographic Mapping (electronic CAD file)
- Digital Orthophotography (electronic CAD file)

NOT TO EXCEED COST FOR THIS TASK: $46,050

Task 3: ENGINEERING STUDIES

Task 3.1 Preliminary Geotechnical Report – CONSULTANT shall prepare a Preliminary Geotechnical Report for work associated with embankments, pavement, slopes, walls and culverts. CONSULTANT shall review readily available materials, and perform a site visit in order to prepare the report. No field exploration work will be completed. The review of readily available materials and data will include as-built Log of Test Borings from existing projects and other Agency records. The potential geotechnical/geologic impacts and mitigation will be discussed on a broad basis including, but not limited to slope stability, geology, seismic impacts, erosion, groundwater conditions, etc.

Task 3.2 Preliminary Foundation Report – CONSULTANT shall prepare a Preliminary Foundation Report for the proposed bridge structure. CONSULTANT shall review readily available materials, and perform a site visit in order to prepare

the report. No field exploration work will be completed. The review of readily available materials and data will include as-built Log of Test Borings from existing projects and other Agency records.

Task 3.3 Traffic Analysis – CONSULTANT shall perform a traffic analysis in support of the development of project alternatives.

Task 3.3.1 Traffic Approach and Methodology – CONSULTANT shall prepare a technical memorandum summarizing for review and approval by the PDT including Caltrans, study intersections, study mainline ramp locations, study analysis periods, future year analysis periods (e.g. opening and design year), traffic operation analysis tools (e.g. Synchro/SimTraffic), and traffic forecasting modeling tools.

Task 3.3.2 Data Collection and Existing Conditions Analysis

Data Collection – CONSULTANT shall collect weekday (Tuesday through Thursday, and excluding holidays) AM (5:00-8:00 AM) and PM (4:00-7:00 PM) peak period turning movement counts at up to ten (10) locations. While ten (10) locations will be selected in consultation with the project team, it is expected that the following existing intersections will be included in the analysis:

1. Arbor Road/Paradise Road
2. Pescadero Avenue/Paradise Road
3. Pescadero Avenue/MacArthur Road
4. I-205 Eastbound Ramps/MacArthur Drive
5. I-205 Westbound Ramps/MacArthur Drive
6. Arbor Avenue/MacArthur Drive
7. Grant Line Road/MacArthur Drive
8. Grant Line Road/Chrisman Road (future new intersection)
9. Grant Line Road/Paradise Road (future new intersection)
10. Grant Line Road/Kasson Road/11th Street

In addition to collecting intersection turning movement counts (Tuesday through Thursday, 5:00-8:00 AM and 4:00-7:00 PM), CONSULTANT shall also obtain 1 weekday AM and PM peak hour count on I-205 at the Paradise Road Overcrossing. CONSULTANT shall review available data from Caltrans at the following locations to supplement the counts:

Freeway Segments

1. I-205, between I-5 and MacArthur Drive (both directions)
2. I-205, between MacArthur Drive and Tracy Boulevard (both directions)
3. I-5, between I-205 and SR 120 Connectors (both directions)

AM and PM Vehicle Occupancy Counts shall be obtained on I-205 during the AM and PM peak hours.

In addition, based on discussions with the project team, I-5 between I-205 and Kasson Road (both directions) may be included under No Project Conditions where traffic volumes would be directed to us 11th Street or I-5/Kasson Road interchange.

Freeway Ramps

1. I-205, westbound on-ramp from southbound I-5
2. I-205, eastbound off-ramp to northbound I-5
3. I-205, westbound off-ramp to MacArthur Drive
4. I-205, westbound on-ramp from MacArthur Drive
5. I-205, eastbound off-ramp to MacArthur Drive
6. I-205, eastbound on-ramp from MacArthur Drive
7. I-205, westbound off-ramp to Tracy Boulevard
8. I-205, westbound on-ramp from Tracy Boulevard
9. I-205, eastbound off-ramp to Tracy Boulevard
10. I-205, eastbound on-ramp from Tracy Boulevard

Similar to the last section, following the following freeway ramps may be included under No Project Conditions where traffic volumes would be directed to use 11th Street or I-5/Kasson Road interchange

1. I-5, southbound off-ramp to 11th Street
2. I-5, southbound off-ramp to Kasson Road
3. I-5, southbound on-ramp from Kasson Road
4. I-5, northbound off-ramp to Kasson Road
5. I-5, northbound on-ramp from Kasson Road
6. I-5, northbound on-ramp from 11th Street

To determine daily volumes in the project study area, CONSULTANT shall collect 24 hour tube counts at up to four (4) locations to be determined by the Project team. CONSULTANT shall conduct site reconnaissance of the project location and surrounding roadway network to verify existing intersection control, lane configurations, traffic signal timings, and other roadway characteristics. CONSULTANT shall observe peak hour traffic operations and vehicle queue lengths to help calibrate/validate the traffic operations models

Freeway Mainline and Ramp Junction Analysis – CONSULTANT shall use the Highway Capacity Software (HCS) 2010 to analyze freeway mainline, freeway weaving section (using Leisch Method), on-ramp merge, and off-ramp diverge section on I-205 from Tracy Boulevard to the west and I-5 to the east. The

analysis shall include only HCS printouts and original electronic files for submission to Caltrans. The use of a spreadsheet analysis shall not be used for this project.

Intersection Analysis – CONSULTANT shall analyze up to ten (10) existing study intersections under AM and PM peak hour conditions using the Synchro/SimTraffic 8.0 software. The traffic simulation analysis shall model the effects of vehicle queues on intersection capacity more accurately than the macroscopic equations provided by the Highway Capacity Manual (HCM). Peak hour factors shall be based on the traffic counts. Peak hour delay and level of service shall be calculated for each intersection consistent with 2010 HCM analysis procedures. The traffic simulation results shall be based on a statistically valid set of multiple runs using different random value seeds according to Caltrans' *Guidelines for Applying Traffic Microsimulation Modeling Software*. The Synchro models shall be converted to micro-simulation (SimTraffic) to determine existing intersection delay, level of service and 95th percentile queues.

Collision Analysis – CONSULTANT shall prepare a collision summary on I-205 between I-5 and MacArthur Drive based on Caltrans TASAS data for the most recent available three year period. The results shall be summarized by collision type in tabular form and compared to state-wide averages for similar facilities.

Existing Conditions Analysis Memorandum – CONSULTANT shall prepare a technical memorandum presenting data collected, the existing traffic operations and the collision summary and submit to the PDT for review and approval. CONSULTANT shall provide a Final Existing Conditions Analysis Memorandum.

Task 3.3.3 Future Conditions Analysis

Develop Traffic Forecasts – The current version of the City of Tracy Travel Demand Forecasting Model shall be used to determine future year peak hour forecasts for the study locations. Prior to developing future year forecasts a focused base year model validation exercise shall be undertaken in the study area. Under this task the existing land use and roadway network within the study area in the base year model shall be checked for accuracy and modified as necessary to best reflect current conditions. The base year model shall then be executed and the model volumes shall be compared against the traffic counts collected to confirm that the model satisfies Caltrans validation criteria within the study area.

Modifications made to the base year model shall be carried forward to the future year Tracy Model. The Tracy Model shall be used to develop opening and design year peak hour and daily forecast for three (3) project alternatives:

Opening Year and Design Year No Project Conditions, Opening Year and Design Year with Improved MacArthur Drive Interchange, and Opening Year and Design Year with Chrisman Road interchange.

Future land use and roadway network assumptions for the study area shall be consistent with the City of Tracy General Plan and the San Joaquin Council of Governments Regional Transportation Plan. The assumptions shall be developed in consultation with the PDT. Special attention shall be paid to the future development and roadway network assumptions surrounding the proposed interchange as well as the River Islands development in the City of Lathrop to ensure that the new interchange is sized appropriately. In addition to traffic forecasts, the Tracy Model shall be used to determine the regional implications of the project by examining additional measures of effectiveness (MOEs) such as vehicle miles of travel (VMT) and vehicle hours of delay (VHD) with and without the project.

Traffic Forecasting Memorandum – A Project Forecasting Information Check List shall be completed for review and approval by Caltrans that includes Model Validation results in Excel tables, Existing AM an PM peak hour traffic volumes in Graphic format, Opening year AM and PM peak hour traffic volumes in Graphic format, and Design Year AM and PM peak hour traffic volumes in Graphic format. CONSULTANT shall respond to one round of review and written comments and shall prepare a Final Traffic Forecasting Memorandum. Once approved, CONSULTANT shall proceed with the technical evaluation of the project.

Opening Year and Design Year Intersection and Freeway Operations Analysis – The traffic forecasts developed shall be used to update the existing HCS traffic analysis models (AM and PM peak period) the three (3) project alternatives. Similar to existing conditions, freeway density and level of service shall be presented for each study mainline section.

The traffic forecasts developed shall also be used to update the existing Synchro/SimTraffic analysis models (AM and PM peak period) for the three (3) alternatives for the opening and design year scenarios. Similar to existing conditions, intersection delay and level of service shall be presented for each study intersection.

Under project conditions, the following two (2) study intersections shall be included in the analysis in addition to the ten (10) existing study intersections:

1. I-205 Eastbound Ramps/Chrisman Road (future project intersection)
2. I-205 Westbound Ramps/Chrisman Road (future project intersection)

CONSULTANT shall compare the results of the scenarios to help the PDT evaluate the benefit and justification for the project. Results shall include average delay, level of service and estimated 95th percentile queue lengths for each study intersection. The results shall also help identify the necessary traffic control and intersection geometrics at the I-205/Chrisman Road interchange that will be necessary to serve the anticipated growth in the area.

It is assumed that ramp metering and HOV Preferential lanes shall be a design feature at the I-205/Chrisman Road interchange. For each of the project alternatives (Chrisman Road interchange) the desired ramp metering storage shall be calculated using Caltrans Ramp Meter Storage Calculation Methodology.

Task 3.3.4 Traffic Operations Report – CONSULTANT shall prepare the Traffic Operations Report (TOR) summarizing the results and findings. CONSULTANT shall submit an Administrative Draft TOR to the project team and the City for review. CONSULTANT shall prepare the Draft TOR, including all analysis electronic files, to submit to Caltrans and other PDT members for review. CONSULTANT shall respond to Caltrans comments and submit the Final Traffic Operations Report. The Final TOR shall be incorporated as an attachment to the Final Project Report.

Task 3.4 Preliminary Drainage Report – CONSULTANT shall evaluate surface drainage and develop a preliminary design for the drainage features necessary to convey storm water off the bridge deck, ramps, and approach roadways. As part of the drainage study, CONSULTANT shall evaluate opportunities to include source controls, runoff reduction measures, and treatment controls into the project in accordance with currently accepted Best Management Practices (BMPs). CONSULTANT shall document the preliminary drainage design and water quality evaluation in Preliminary Drainage Report.

Task 3.5 Storm Water Data Report – CONSULTANT shall identify potential storm water quality impacts and develop options to avoid, reduce or minimize the potential for storm water quality impacts. CONSULTANT will ensure that the programmed project includes sufficient right-of-way and budget for required storm water controls and identify project-specific permanent and temporary Best Management Practices (BMPs) that may be required to mitigate impacts. Drainage areas and total disturbed area will be defined, as will climatic conditions, existing drainage site conditions, site permeability, soil texture, existing vegetation and

groundwater. A Storm Water Data Report will be prepared in accordance with the latest version of the Caltrans Project Planning and Design Guide.

Task 3.6 *Value Analysis Study (Optional Task)* – CONSULTANT shall conduct a Value Analysis (VA) Study based on the guidance in Chapter 19 of the PDPM, and as detailed in the Caltrans VA Team Guide and Report Guide. The VA Study shall be conducted over the course of a 5-day period. Tasks shall include: provide a qualified, independent Certified Value Specialist (CVS) team leader to lead the VA Study in accordance with Caltrans Value methodology; provide VA study documentation in accordance with the Caltrans VA Report Guide; ensure that applicable data and correspondence and any other relevant information necessary for the VA study is collected, developed and distributed; facilitate VA team meetings. The VA team leader shall be responsible for leading the study meetings; developing the draft VA study charter; completing the Preliminary VA Report with input/review of team and technical reviewers; submitting Preliminary VA Report; coordinate responses to preliminary VA Report and prepare for an implementation meeting to resolve the disposition of the VA alternatives; finalize the VA Study Report; submitting the final VA Report; scheduling an implementation meeting. ENGINEER shall provide personnel to assist the VA Study team during the study. City may provide an expert reviewer representing the City for the 5-day VA Study.

Deliverables:

- Preliminary Geotechnical Report (8.5 x 11 hard copy and pdf)
- Preliminary Foundation Report (8.5 x 11 hard copy and pdf)
- Traffic Analysis Approach and Methodology Technical Memorandum (8.5 x 11 hard copy and pdf)
- Final Existing Conditions Analysis Memorandum (8.5 x 11 hard copy and pdf)
- Final Traffic Forecasting Memorandum (8.5 x 11 hard copy and pdf)
- Final Traffic Operation Report (8.5 x 11 hard copy and pdf
- Preliminary Drainage Report (8.5 x 11 hard copy and pdf)
- Storm Water Data Report (8.5 x 11 hard copy and pdf)
- *Value Analysis Study (Optional Task – Fee for this Task is NOT included in the fee below)*

NOT TO EXCEED COST FOR THIS TASK: $222,542

Task 4: ENVIRONMENTAL DOCUMENTATION

Under the direction of Caltrans, serving as both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) lead agency, CONSULTANT shall perform all required environmental research and analysis necessary for the project, pursuant to CEQA and NEPA requirements, as well as the

policies and procedures contained in Caltrans' Standard Environmental Reference. CONSULTANT shall perform all environmental documentation and coordination.

Task 4.1 Technical Studies – CONSULTANT shall coordinate and prepare all required environmental studies to be incorporated into the environmental document. Prior to environmental surveys, CONSULTANT shall request, and when possible, obtain permits to enter for private property in the project area. CONSULTANT shall coordinate with Caltrans staff for current right-of-entry request letters. CONSULTANT shall prepare and distribute copies of the technical studies for each of the review cycles and shall respond to comments and update the studies as needed for approval. Technical studies include the following:

Task 4.1.1 Cultural Resources (HPSR/ASR/HRER) – CONSULTANT shall prepare documentation in accordance with Section 106. This work shall include the efforts to record archaeological and historical resources identified within the study area. A Historic Property Survey Report (HPSR) shall be prepared to identify and evaluate each cultural resource in the project area and evaluate the potential for impacts this project could have on those resources. This work effort shall build upon work completed during the scoping phase of the project.

Historic Property Survey Report (HPSR) – All cultural resource efforts shall be completed in compliance with Section 106 of the National Historic Preservation Act (NHPA) and shall follow the requirements set forth in the Caltrans Standard Environmental Reference Volume II, Cultural Resources and the Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it pertains to the administration of the Federal-aid Highway Program in California.

Archaeological Survey Report (ASR) – CONSULTANT archaeologist shall prepare the Archaeological Survey Report (ASR) according to Caltrans specifications. This report shall describe: 1) the results of Native American Consultation, 2) research and field methods used in identifying cultural resources, 3) the archaeological and historic resources identified in the project vicinity, and 4) the potential of the project to adversely impact any archaeological or historic resources.

Historic Resources Evaluation Report (HRER) – CONSULTANT shall prepare a Caltrans formatted HRER to evaluate the structural resources within the project footprint, including structures previously not evaluated. The report shall evaluate the built environment for structures that are older than 50 years and that have been previously listed on or are eligible for the National Register of Historic Places (NRHP).

Research – A cultural resource records search shall be conducted at the Central California Information Center, located at Stanislaus State University. The records search will provide information on known cultural resources and on previous cultural resources investigations within a one-mile radius of the project area. Data sources that will be consulted at the Information Center include archaeological site and artifact records, historic maps, reports from previous studies, and the state's Historic Resource Inventory, which contains listings for National Register of Historic Places, California Register of Historical Resources, California Historical Landmarks, and California Points of Historical Interest.

Field Survey – CONSULTANT shall conduct a systematic field survey of portions of the Area of Potential Effects (APE) that are not obscured by asphalt/concrete. The ground surface shall be visually examined by an archaeologist for evidence of prehistoric (Native American) or historic (non-Native American) archaeological materials and other potential historic resources (e.g., buildings, bridges, railroads, mines, or canals). To meet State standards, any previously unrecorded resources identified during the survey shall be recorded on State of California DPR 523 forms.

Area of Potential Effect (APE) Map – CONSULTANT shall coordinate with Caltrans cultural staff to develop an APE Map for review and approval. CONSULTANT has already drafted the APE Map and will finalize the map once the City is comfortable with the refined project alignment. This APE shall determine the limits of field surveys and report documentation.

Native American Consultation – Under the direction of Caltrans and the District Native American Coordinator, CONSULTANT shall contact the Native American Heritage Commission. The commission will provide a list of Native American groups to contact regarding this project. With City approval, CONSULTANT shall contact each tribe via certified mail. After 28 days, CONSULTANT shall follow up via telephone with those groups that have not responded to the initial letter. CONSULTANT shall document all Native American consultation efforts.

Task 4.1.2 Community Impact Assessment (CIA) – CONSULTANT shall prepare a CIA to document potential impacts this project could have to the local community, minority, and low income populations as well as evaluating the potential for public controversy over replacement of the bridge. The project has the potential to negatively affect this residential area due to increases in vehicular and construction noise, temporary reduction in public access, and the potential for right-of-way acquisition which may require relocating some of these residences. Pursuant to NEPA requirements, impacts to this low income population shall be evaluated consistent with federal Environmental Justice policy.

The CIA shall be based on current Caltrans Guidelines (Environmental Guidelines Volume 1, Chapter 24 – Community Impacts) and will discuss social impacts, businesses and residences affected by the project, and community resources such as schools, parks, and emergency services. If residential relocations are necessary a Relocation Impact Report will be prepared pursuant to Caltrans standards.

Task 4.1.3 Air Quality Report – CONSULTANT shall prepare an Air Quality Report in coordination with Caltrans and the City. The I-205/Chrisman Road New Interchange Project is located within the San Joaquin Valley Air Basin and is designated as a non-attainment area for ozone and PM10. The Air Quality Report shall include a qualitative and quantitative analysis of potential impacts on carbon monoxide (CO) or particulate matter (PM10/PM2.5), following the 1997 CO Protocol by U.C. Davis and the FHWA's PM2.5/PM10 qualitative analysis guidance. A qualitative analysis of mobile source air toxics (MSAT) would also be included, following FHWA's Interim Guidance Update on Mobile Source Air Toxic Analysis in NEPA. The Air Quality Report shall also include: discussion of mitigation of fugitive dust (including PM10) according to the San Joaquin Valley Air Pollution Control District (SJVAPCD). An air quality conformity analysis shall also be necessary for this project. Interagency consultation (City of Tracy and SJCOG) will need to be carried out for the proposed project. Also, Caltrans will need to submit a conformity determination to FHWA for FHWA's conformity determination.

Task 4.1.4 Noise Study Report – CONSULTANT shall prepare a Noise Study Report that assesses the project's potential effects on existing and future noise conditions, including construction impacts. CONSULTANT shall review applicable Federal, State and City noise and land use compatibility criteria for the project area. Noise standards regulating noise impacts including Federal Highways (FHWA) Noise Abatement Criteria (NAC) and standards included in the City's Noise Ordinance shall be discussed for sensitive land uses adjacent to the project.

A survey of existing ambient noise levels shall be conducted to establish the character of the noise environment at any sensitive receptor locations in the project area. Analysis requirements will be based on the sensitivity of the area and the Noise Ordinance specifications of the City. The existing and future noise levels will be assessed using the traffic noise impact screening procedure outlined in section N-4000 of the Caltrans Technical Noise Supplement (TeNS). If the proposed project fails the screening criteria, a detailed analysis shall be performed as outlined in section N-5000 of the TeNS using the most recent version of the Traffic Noise Model 2.5 (TNM 2.5). If the future with-project noise levels are estimated to approach or exceed the NAC, a Noise Abatement Decision Report shall be completed to assess noise abatement measures (such

as sound barriers) for feasibility and reasonableness. If both feasible and reasonable, abatement measures shall be included in the project to reduce potential noise impacts to a less than significant level.

Task 4.1.5 Visual Impact Assessment – CONSULTANT shall prepare a Visual Impact Analysis (VIA) due to the project being a new interchange. The analysis shall be performed using a matrix to compare visual resources within defined landscape units, and will include: visual quality and character, the viewers and viewpoints, and changes in vividness, intactness, and unity. The report shall include the following graphics: a vicinity map, the landscape units, representative photographs, and a map of representative photograph locations. The Visual Impact Assessment will be reviewed and approved by a licensed Landscape Architect prior to submittal to Caltrans for approval.

Task 4.1.6 Natural Environment Study (NES) – CONSULTANT shall conduct field surveys and extensive literature research to assist in determining the existence or potential occurrence of sensitive plant and animal species on the project site or in the vicinity. This work effort will build upon work completed during the scoping phase of the project. Literature under review shall include federal and State lists of sensitive species and current database records, including the California Natural Diversity Data Base (California Department of Fish and Wildlife [CDFW], 2013) and the California Native Plant Society's Electronic Inventory of Rare and Endangered Vascular Plants of California (Skinner, et al., 2004). In accordance with Caltrans guidelines, a list of threatened and endangered species known in the project vicinity will be obtained from the United States Fish and Wildlife Service (USFWS). Any new species or impacts will be included in the NES.

CONSULTANT biologists shall conduct fieldwork in order to confirm jurisdictional water resources, assess the presence/absence of sensitive biological resources (e.g., species or habitats), and to determine the potential for occurrence of such resources that may not be detectable when the fieldwork is conducted. Previous research indicates that the project area mostly consists of hardscape and actively used farmland. The actively used farmland could be providing foraging habitat for the San Joaquin kit fox and hawks such as Swainson's hawk. The northern most limit of the project is adjacent to (approximately 400 feet) the Tom Paine Slough. No direct impacts to this water body are anticipated; however, species could be using this water body and surrounding uplands as habitat. The slough is sparsely vegetated and no emergent vegetation was observed. As a result, the slough does not appear suitable for California red-legged frog or giant garter snake. In addition, no water or adjacent wetlands or vernal pools were observed that could provide adequate breeding habitat for California tiger salamander. No elderberry shrubs were observed and it is not anticipated that sensitive plant species will be identified during focused surveys. A clump of

large Eucalyptus trees is present at the southeast limits of the project. These could provide nesting habitat for hawks and other migratory birds.

CONSULTANT shall prepare a Caltrans' formatted NES that will include a description of the field methods used and the results of the biological assessment of the project area. The report shall list plant and animal species present, along with a general description of the plant communities occurring within the project area. If any sensitive resources are found on the site, CONSULTANT shall prepare, and include in the NES, a graphic displaying the location of the sensitive plant communities onsite and any sensitive biological resources observed. The report also shall contain tables describing sensitive species and their habitats that are present or potentially present, and it will identify and assess project impacts on the existing biological resources, including any sensitive species. Minimization and mitigation measures shall be included as necessary.

Task 4.1.7 Wetland Delineation – CONSULTANT shall complete a jurisdictional wetland delineation according to the 1987 Army Corps of Engineers (ACOE) Wetland Delineation Manual and 2008 Arid West Regional Supplement, the currently accepted methodology. CONSULTANT shall also determine the extent of any streambed and associated riparian areas subject to review by CDFW under Section 1600 et seq. of the Fish and Game Code.

The results of the delineation shall be presented in the NES that will include mapping of any jurisdictional wetland areas. The results of the delineation are subject to verification by the ACOE and CDFW.

This task is needed for the environmental document, but will be used to initiate early and continuous coordination with ACOE and the other permitting agencies.

Task 4.1.8 Paleontological Memorandum – CONSULTANT shall investigate the geologic character of the project site. Due to previous soil disturbance required to construct the existing facility, and due to the disturbed nature of adjacent agricultural and developed land, there is little potential for discovery of paleontological resources for the build alternative.

Task 4.1.9 Farmlands 1006 Farmland Report – CONSULTANT shall prepare a AD-1006 Farmland Conversion Impact Rating due to some private property within the project area that has been identified as farmland. This report would document changing the land classification from farmland to a non-farming activity. CONSULTANT shall work with the National Resource Conservation Service (NRCS) to obtain scoring for the purposes of defining potential impact to farmland in the environmental document.

Task 4.1.10 Initial Site Assessment – CONSULTANT shall complete an Initial Site Assessment (ISA) for the proposed project. A data search shall be performed for an approximate 1.0 mile radius from the project site. The ISA shall identify potential hazardous waste sites and evaluate environmental factors that may have impacted the soil and groundwater within the project area. The study shall include data collection and documents research including historical land use based on study of aerial photographs and other relevant documents. The data research shall be ordered from the Environmental Data Research Inc. (EDR Inc.) No field exploration and/or testing will be completed.

Task 4.1.11 Water Quality Memorandum – CONSULTANT shall prepare a Water Quality Memorandum to address the potential for project impacts on water quality based on current Caltrans guidelines (Environmental Handbook Volume 1, Chapter 9, Water Quality). The report shall discuss the San Joaquin Delta watershed, receiving waters conditions, objectives, and beneficial uses as well as Caltrans standard best management practices (BMPs) and project design features required in accordance with the current Caltrans Statewide Storm Water Management Plan.

In accordance with the National Pollution Discharge Elimination System (NPDES) general construction activity stormwater discharge permit, applicable requirements will be identified. Likewise, compliance with Section 401 of the Clean Water Act will ultimately be necessary (water quality certification). To comply with Section 401 requirements, specific mitigation measures, including BMPs specified in Caltrans' Storm Water Quality Handbook - Planning and Design Guide, will be identified for water quality impacts that may occur during construction.

Task 4.2 Environmental Document

Task 4.2.1 Draft Environmental Document – CONSULTANT shall incorporate the purpose and need, project description, and the technical studies into the Draft Environmental Document using the Caltrans Central Region Writing Template following the Caltrans Statewide Annotated Outline. CONSULTANT shall prepare sections for Human Environment, Physical Environment, Biological Environment, and Cumulative Impacts. It is anticipated that an Initial Study/Environmental Assessment will be prepared but final determination of document level will come after the completion of the technical studies. The Initial Study / Environmental Assessment (IS/EA) shall determine if the project will have any significant adverse effects on the environment under both State and Federal standards, identify potential mitigation measures for such impacts, and determine if the mitigation measures reduce all impacts below a level of significance. If impacts on a State level cannot be mitigated below a significant

level, an Environmental Impact Report, Findings, and a Statement of Overriding Considerations shall be prepared.

After preparation of the Administrative Draft IS/EA, the document will undergo multiple levels of review. These reviews include a review by the City, a review by the Caltrans Environmental Coordinator and environmental technical reviewers, a review by the Caltrans Central Region Quality Assurance/Quality Control Staff, and a Caltrans Executive Staff Review. These reviews will ensure the document has been adequately prepared prior to the start of the public and agency circulation.

The Draft IS/EA shall be provided to agencies for review and comment. CONSULTANT shall revise the Draft IS/EA in response to the agencies' comments and a revised Draft IS/EA will be provided to the agencies for review and comment.

Task 4.2.2 Public Circulation – CONSULTANT shall prepare the IS/EA for public review. The IS/EA has a critical objective of providing a means by which the general public and responsible agencies can participate in the environmental process by providing written comments on issues addressed in the IS/EA. CONSULTANT shall prepare the requisite public notices for distribution of the IS/EA. CONSULTANT shall prepare the requisite number of hard copies of the IS/EA document and the technical studies. CONSULTANT shall coordinate the preparation of the distribution list with the City(s) and Caltrans.

Prepare Responses to Comments – At the close of the public review period for the IS/EA, CONSULTANT shall meet with the City and Caltrans staff to review any comments on the IS/EA that were received, and to discuss potential responses to these comments.

CONSULTANT shall then formulate responses to the comments on the IS/EA. Once draft responses to comments are completed, they will be submitted to the agencies' staff for review and comment. The agencies' comments will be incorporated into the response to comments document, which will be submitted to Caltrans as an appendix in the IS/EA.

Administrative Record – Prior to action on the IS/EA and the Final Environmental Documents, CONSULTANT shall prepare appropriate findings and determinations for the Administrative Record. The Administrative Record will conform to the requirements of NEPA Assignment by FHWA to Caltrans as detailed in the Caltrans Standard Environmental Reference, Volume 1 which includes the use of the Uniform Filing System.

Task 4.2.3 Final Environmental Document – Following public review of the IS/EA, CONSULTANT shall prepare the appropriate determination documents for CEQA and NEPA (expected to be a Mitigated Negative Declaration and Finding of No Significant Impact [MND/FONSI]). The final steps in the NEPA process are dependent on the procedures of Caltrans, and any agreements with the cooperating agencies. Similar to the agency review process for the Draft Environmental Document, the Final Environmental Document will be reviewed by the City and multiple reviews through Caltrans' QA/QC process. To complete the CEQA process, CONSULTANT shall file a Notice of Determination with the California State Clearinghouse within 5 days of approval of the MND/FONSI (pursuant to CEQA guidelines). The City will be responsible for payment of the California Department of Fish and Wildlife CEQA Filing Fee.

Task 4.2.4 Environmental Commitment Record – CONSULTANT shall prepare an Environmental Commitment Record, including monitoring forms, to insure that the mitigation measures contained in the IS/EA are properly implemented.

Deliverables:

- Permits to Enter
- Technical Studies (8.5 x 11 hard copy and pdf)
- Draft Environmental Document (8.5 x 11 hard copy and pdf)
- Public Circulation copies of Draft Environmental Document
- Final Environmental Document (8.5 x 11 hard copy and pdf)
- Environmental Commitment Record (8.5 x 11 hard copy and pdf)
- Administrative Record (8.5 x 11 hard copy and pdf)

NOT TO EXCEED COST FOR THIS TASK: $252,470

Task 5: UTILITY MAPPING

Task 5.1 Utility Mapping – CONSULTANT shall perform a utility search for affected utilities in the project area. The search shall include a verification field review and review of available as-builts for the project area. Utility companies identified to potentially have facilities within the area shall be sent a letter requesting information regarding existing and proposed utilities. CONSULTANT shall plot the location of all existing facilities on a utility base plan and identify potential utility conflicts. Where it is necessary to evaluate alternative impacts, CONSULTANT shall meet with selected utilities to discuss a conceptual relocation strategy.

Task 5.2 Utility Information Sheet – CONSULTANT shall prepare a Utility Information Sheet for the build alternative. The names of all utilities and points of contact shall be developed and a description of the location, existing facility and

potential conflicts with the project shall be prepared. The utility information can be used as part of the alternative evaluation process and during future tasks and phases including utility coordination and preparation of the final design.

Deliverables:
- Utility Base Map (electronic CAD file)
- Utility Information Sheets (8.5 x 11 hard copy and pdf)

NOT TO EXCEED COST FOR THIS TASK: $7,214

Task 6: RIGHT OF WAY

Task 6.1 Preliminary Right of Way Mapping – CONSULTANT shall develop an existing right of way mapping for the project study area. CONSULTANT shall research existing recorded maps and surveys at the San Joaquin County Surveyors Office and Right of Way Maps at Caltrans, for those parcels along the project corridor that fall within the project area. CONSULTANT shall prepare preliminary right of way base mapping along the project corridor based on the records research. The right of way base map shall show existing right of way lines and adjoining parcels with owners of record and available assessor's numbers.

Task 6.2 Right of Way Requirements Map – CONSULTANT shall prepare a map showing anticipated right of way requirements for each alternative, up to three alternatives. The right of way requirement map shall provide enough detail to support the decision making process in selecting an alignment and shall define property acquisition/easement areas required for the Right of Way Data Sheet.

Task 6.3 Right of Way Data Sheets – CONSULTANT shall summarize right of way impacts for each alternative. Data sheets shall summarize the number of parcels potentially affected, impacts to property access and shall include a preliminary estimate of right of way acquisition costs.

Deliverables:
- Preliminary Right of Way Base Map (electronic CAD file)
- Preliminary Right of Way Requirements Map (11x17 exhibits hard copy and pdf)
- Right of Way Data Sheets (8.5 x 11 hard copy and pdf)

NOT TO EXCEED COST FOR THIS TASK: $20,940

Task 7: PRELIMINARY DESIGN

Task 7.1 Refine/Evaluate Conceptual Alignments – Based upon the results of the traffic operations analysis, project mapping, geotechnical study, available data, and input from the City, CONSULTANT shall evaluate schematic conceptual alternative alignments for the project. This includes the L-9 partial cloverleaf at the location of the existing Paradise Road Overcrossing as identified in the previously approved Project Study Report (PSR). CONSULTANT shall review and obtain comments from the City, Caltrans, and other stakeholders as approved by the City. CONSULTANT shall prepare alternative alignment drawings that will serve to establish the project footprint for subsequent environmental studies.

Task 7.2 Develop Project Alternatives – CONSULTANT shall prepare up to three (3) detailed project alternatives based on the selected conceptual alignments. Alternative alignments will be developed to identify approximate impact limits for the area of potential effects and project study area.

Task 7.3 Geometric Approval Drawings – Once the preferred alternative is selected, CONSULTANT shall prepare a Geometric Approval Drawing (GAD) package to obtain approval of the alignment geometrics. CONSULTANT shall prepare the GAD in accordance with Caltrans GAD requirements. The purpose of the GAD is to demonstrate that the proposed design meets the requirements of the Highway Design Manual and formally confirm that the design meets the operational needs of the facility. In addition, the GAD provides the foundation for the project base map. CONSULTANT shall prepare the GAD submittal package which includes plan view exhibits, profiles with superelevation diagrams, and typical sections.

Task 7.4 Design Exception Fact Sheets – CONSULTANT shall evaluate each build alternative for all non-standard features that are identified in the Design Information Bulletin (DIB) 78. The DIB 78 shall be used in conjunction with the Caltrans Highway Design Manual and compared to mandatory, advisory, procedural, and permissive designs. Design exceptions shall be identified for each selected alternative in the Draft Project Report.

Once the Draft Project Report has been reviewed and a preferred alignment determined, CONSULTANT shall prepare Design Exception Fact Sheets for all identified non-standard features and shall submit to Caltrans for review and approval. The Fact Sheets shall be prepared in accordance with Chapter 21 of the Project Development Procedures Manual, "Exceptions to Design Standards." The signed Design Exception Fact Sheets shall become an attachment to the Final Project Report.

Task 7.5 Structures Advanced Planning Studies – CONSULTANT shall prepare a total of 3 Advanced Planning Studies (APS's) conforming to Caltrans Memo to Designers 1-8, and Caltrans Bridge Design Aids Section 10.

As part of the preparation of the APS's, CONSULTANT shall perform the necessary preliminary engineering to justify the proposed bridge types, develop an APS for the structure per Caltrans Bridge Design, and develop a cost estimate for the structures work. The estimate shall be prepared in the usual format for bridge projects. Preliminary design (for member sizing) of the structures shall be performed to ensure that it meets the latest AASHTO Load and Resistance Factor (LRFD) guidelines with Caltrans amendments along with the latest Caltrans Seismic Design Criteria.

Task 7.6 Stage Construction Concept – CONSULTANT shall complete a stage construction plan for the build alternatives. The stage construction concept shall assist in determining constructability, staging sequencing, potential detours, construction schedule duration, project footprint, and costs associated with the project staging.

Task 7.7 Transportation Management Plan – CONSULTANT shall complete a Preliminary Transportation Management Plan (TMP) checklist for the construction of the preferred alignment. The TMP shall be in accordance with Caltrans guidelines and shall show measures needed during the staged construction of the project, traffic handling during each stage, detour plans, permissible lane closures, and analysis of traffic operations. The checklist shall be an attachment to the Final Project Report.

Task 7.8 Life Cycle Cost Analysis – CONSULTANT shall prepare a Life Cycle Cost Analysis (LCCA) for the project to determine cost effectiveness of project components such as pavement, structural elements, etc. The LCCA shall be in accordance with Caltrans guidelines. The LCCA shall be an attachment to the Final Project Report.

Task 7.9 Cost Estimates – CONSULTANT shall prepare Caltrans standard 6-page cost estimates for each build alternative. The unit costs for construction items shall be based on current bids. Costs shall include all roadway items, structure items, and right of way items. Cost estimates shall be an attachment to the Final Project Report.

Deliverables:

- Project Alternatives (11x17 hard copy and pdf)
- Geometric Approval Drawing (hard copy and pdf)
- DIB 78 (hard copy and pdf)
- Design Exception Fact Sheets (8.5 x 11 hard copy and pdf)

- Advance Planning Studies (11 x 17 hard copy and pdf)
- Stage Construction Concept (hard copy and pdf)
- Preliminary Transportation Management Plan (8.5 x 11 hard copy and pdf)
- Life Cycle Cost Analysis (8.5x11 hard copy and pdf)
- Cost Estimates (8.5 x 11 hard copy and pdf)

NOT TO EXCEED COST FOR THIS TASK: $106,351

Task 8: PROJECT REPORT

Task 8.1 Draft Project Report – CONSULTANT shall prepare a Draft Project Report for submittal to the City and Caltrans. The Draft Project Report shall include the following sections: Introduction, Recommendation, Background, Purpose and Need, Alternatives, Considerations Requiring Discussion, Other Considerations as Appropriate, Programming, Reviews, and Project Personnel. In addition, the Draft Project Report shall include the following engineering reports and studies as attachments: Utility Information Sheet, Preliminary Drainage Report, Storm Water Data Report, Right of Way Data Sheet, Cost Estimate, Structure Advance Planning Studies, Traffic Management Plan checklists, Conceptual Stage Construction exhibits.

Task 8.2 New Access Report – CONSULTANT shall prepare a New Access Report for the preferred alternative following FHWA and Caltrans guidelines. CONSULTANT shall develop a Draft and Final New Access Report for submittal to the City and Caltrans. CONSULTANT shall coordinate with Caltrans and FHWA to obtain approval on buildable alternative for the project.

Task 8.3 Final Project Report – Following public circulation of the Draft Environmental Document, consideration of public comments and the selection of a preferred alternative, and approval of the New Access Report, the Draft Project Report shall be revised to create the Final Project Report. All sections and attachments of the Draft Project Report shall be included in the Final Project Report.

Deliverables:
- Draft Project Report (8.5 x 11 hard copy and pdf)
- New Access Report (8.5 x 11 hard copy and pdf)
- Final Project Report (8.5 x 11 hard copy and pdf)

NOT TO EXCEED COST FOR THIS TASK: $60,453

III. COMPLETION OF THE SCOPE OF SERVICES. CONSULTANT shall complete the design within the following timeline & budget:

CONSULTANT shall complete all design in the period of One Hundred and Thirty (130) weeks.

CONSULTANT not to exceed cost to complete all design is $826,919

EXHIBIT "B"

INDEX

CONSULTANTS' LIST OF PERSONNEL

CONSULTANT	EXHIBIT PAGE
DOKKEN ENGINEERING	B-1
FEHR & PEERS	B-2
PARIKH CONSULTING	B-3
DRAKE HAGLAN & ASSOCIATES	B-4
KJELDSEN SINNOCK & NEUDECK, INC.	B-5
ENTECH CONSULTING GROUP	B-6
GPA CONSULTING	B-7
MARTIN HSU	B-8

EXHIBIT B-1

DOKKER ENGINEERING
LIST OF PERSONNEL

NAME	CLASSIFICATION
Rick Liptak	Principal
Juann Ramos	Project Manager
Jacqueline Lockhart	Project Engineer
Staff	Senior Engineer
Staff	ROW Specialist/Prof. Land Surveyor
Staff	Associate Engineer
Staff	Assistant Engineer
Namat Hosseinion	Environmental Manager
Staff	Associate Planner/Biologist
Staff	Environmental Planner
Staff	Environmental Planner/Archaeologist
Staff	Biologist
Staff	GIS Specialist
Staff	CADD Detailing & Estimating

EXHIBIT B-2

FEHR & PEERS
LIST OF PERSONNEL

NAME	CLASSIFICATION
Fred Choa	Project Manager
Kevin Johnson	Senior Engineer
Staff	Engineer
Staff	GIS Graphics

EXHIBIT B-3

PARIKH CONSULTING
LIST OF PERSONNEL

NAME	CLASSIFICATION
Gary Parikh	Geotechnical Project Manager
Staff	Senior Engineering Geologist
Staff	Project Soils Engineer
Staff	Staff Engineer
Staff	Engineering Draftsperson

EXHIBIT B-4

DRAKE HAGLAN & ASSOCIATES
LIST OF PERSONNEL

NAME	CLASSIFICAITON
Dennis Haglan	Principal Engineer
Kevin Ross	Principal Engineer
Stacey Alligiue	Bridge Engineer
Jennifer Grant	Bridge Engineer
Alex Barba	CAD Manager
Staff	CAD Draftsperson
Staff	Administrator
Staff	Project Administrator

EXHIBIT B-5

KJELDSEN SINNOCK & NEUDECK, INC.
LIST OF PERSONNEL

NAME	CLASSIFICATION
Staff	Principal Engineer
Staff	Senior Land Surveyor
Staff	Land Surveyor
Staff	Assistant Land Surveyor
Staff	Senior Technician
Staff	Survey 2 Man Crew

EXHIBIT B-6

ENTECH CONSULTING GROUP
LIST OF PERSONNEL

NAME	CLASSIFICATION
Michelle Jones	Principal
Joza Bautista	Air/Noise Analyst

EXHIBIT B-7

GPA CONSULTING
LIST OF PERSONNEL

NAME	CLASSIFICATION
Andrea Galvin	Principal Architectural Historian
Laura O'Neill	Senior Architectural Historian
Elysha Paluszek	Architectural Historian II
Amanda Yoder	Architectural Historian I

EXHIBIT B-8

MARTIN HSU
LIST OF PERSONNEL

NAME	CLASSIFICATION
Martin Hsu	Project Manager/Team Leader
Staff	Clerical Support
Staff	Proof Reader/Quality Control

EXHIBIT C

INDEX

CONSULTANTS' SCHEDULE OF CHARGES

CONSULTANT	EXHIBIT PAGE
DOKKEN ENGINEERING	C-1
FEHR & PEERS	C-2
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DRAKE HAGLAN & ASSOCIATES	C-4
KJELDSEN SINNOCK & NEUDECK, INC.	C-5
ENTECH CONSULTING GROUP	C-6
GPA CONSULTING	C-7
MARTIN HSU	C-8

EXHIBIT C-1

DOKKEN ENGINEERING
FEE SCHEDULE

Effective through December 31, 2015

Professional and supporting staff services will be billed at the following hourly rates:

Rick Liptak	Principal	$210.38
Juann Ramos	Project Manager	$190.74
Jacqueline Lockhart	Project Engineer	$109.40
Staff	Senior Engineer	$145 - $220
Staff	ROW Specialist/Prof. Land Surveyor	$125 - $165
Staff	Associate Engineer	$85 - $145
Staff	Assistant Engineer	$65 - $105
Namat Hosseinion	Environmental Manager	$176.72
Staff	Associate Planner/Biologist	$85 - $125
Staff	Environmental Planner	$55 - $95
Staff	Environmental Planner/Archaeologist	$55 - $95
Staff	Biologist	$55 - $95
Staff	GIS Specialist	$55 - $95
Staff	CADD Detailing & Estimating	$85 - $145

Ordinary supplies and equipment are included in the above hourly rates. The following are considered items of special charge and their costs will be added at the following rates:

Outside Reproduction	Actual Cost
Permits / Public Notices	Actual Cost
Record Search Fees	Actual Cost
Room and Equipment Rentals	Actual Cost
Traffic Control	Actual Cost
Utility Potholing	Actual Cost

EXHIBIT C-2

FEHR & PEERS
FEE SCHEDULE

Hourly Billing Rates

Project Manager	$200
Senior Engineer	$122
Engineer	$101
Support Staff (Graphics/Admin)	$86

Other Direct Costs/Reimbursable expenses are invoiced at cost.

Personal auto mileage is reimbursed at the then current IRS approved rate.

Voice & Data Communications (Telephone, fax, computer, e-mail, etc.) are invoiced at cost as a percentage of project labor.

EXHIBIT C-3

PARIKH CONSULTING
FEE SCHEDULE

STAFF CATEGORY	RATE
Project Manager	$231
Senior Engineer/Geologist	$175
Project Soils Engineer	$150
Staff Engineer	$98
Field Engineer	$109
Laboratory Technician	$117
Engineering Draftsperson	$86

Construction Phase: All time spent over 8 hours per day and Saturdays for field personnel will be charged 1.5 times the hourly rate. Sunday work will be charged at twice the hourly rate. All charges are portal to portal and mileage will be charged at 50 cents per mile. Field time, including travel time, will be charged in a 2-hour increment. Any chargeable time that falls in between these increments will be charged at the rate of next 2-hour increment. Field and technician rates, wherever applicable, are dictated by the Prevailing wages which are established by the State Department of Industrial Relations.

Outside Services

Drilling rental of special equipment and other outside charges will be invoiced at cost plus 10%. Direct contracting/billing and payment will not incur these costs. Outside Services beyond those included in the proposal, will not be performed without prior authorization from the Client.

Miscellaneous outside reimbursable expenses encountered during the performance of our work, such as printing and other incidentals, will be billed at cost.

The hourly rates indicated above shall remain in effect for the first year of the agreement. Annual Escalation will apply to these rates. These escalations are on an average of 3-5% per year (CPI + 1%)

EXHIBIT C-4

DRAKE HAGLAN & ASSOCIATES
FEE SCHEDULE

NAME	CLASSIFICATION	RATE
Dennis Haglan	Principal Bridge Engineer	$188
Kevin Ross	Principal Bridge Engineer	$188
Stacey Alligiue	Bridge Engineer	$130
Jennifer Grant	Bridge Engineer	$112
Alex Barba	CAD Manager	$105
Staff	CAD Draftsperson	$94
Staff	Administrator	$86
Staff	Project Administrator	$104

Vehicle Mileage ---------- Current IRS standard Rates

Hourly charges include provisions for normal office overhead costs such as office rental, utilities, insurance, clerical services, equipment, normal supplies, and in-house reproduction services.

EXHIBIT C-5

KJELDSEN SINNOCK & NEUDECK, INC.
FEE SCHEDULE

STAFF CATEGORY	RATE
Principal Engineer	$175
Senior Land Surveyor	$139
Land Surveyor	$93
Assistant Land Surveyor	$78
Senior Technician	$78
Survey 2 Man Crew	$229

Other Direct Costs/Reimbursable expenses are invoiced at cost.

EXHIBIT C-6

ENTECH CONSULTING GROUP
FEE SCHEDULE

STAFF CATEGORY	RATE
Principal	$151
Air/Noise Analyst	$55

Other Direct Costs/Reimbursable expenses are invoiced at cost.

EXHIBIT C-7

GPA CONSULTING
FEE SCHEDULE

STAFF CATEGORY	RATE
Principal Architectural Historian	$145
Senior Architectural Historian	$98
Architectural Historian II	$62
Architectural Historian I	$56

Other Direct Costs/Reimbursable expenses are invoiced at cost.

EXHIBIT C-8

MARTIN HSU
FEE SCHEDULE

STAFF CATEGORY	RATE
Project Manager/Team Leader	$172
Clerical Support	$56.37
Proof Reader/Quality Control	$76.49

Other Direct Costs/Reimbursable expenses are invoiced at cost.

RESOLUTION 2013- _____

APPROVING A PROFESSIONAL SERVICES AGREEMENT NO. DE 2 WITH DOKKEN ENGINEERING TO PROVIDE PROFESSIONAL SERVICES TO PREPARE PROJECT APPROVAL (PA) AND ENVIRONMENTAL DOCUMENTS (ED) FOR THE I-205/CHRISMAN ROAD NEW INTERCHANGE PROJECT CIP 73109, FEDERAL NO. HPLULN-5192 (034), FOR A NOT TO EXCEED AMOUNT OF $826,919, AUTHORIZE TRANSFER OF $239,838 FROM CIP 73014 TO 73109, AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT, AUTHORIZING THE DEVELOPMENT SERVICES DIRECTOR TO APPROVE AMENDMENTS TO THIS AGREEMENT FOR ADDITIONAL SERVICES IF NEEDED UP TO AN AMOUNT OF $80,000

WHEREAS, The City's General Plan identifies a new interchange at I-205 and Chrisman Road to serve the eastern part of the City and future Northeast Industrial Areas; and

WHEREAS, City has secured Federal Transportation Enhancement Act (TEA) grant funds in the amount of $719,000 for the Project Initiation Development (PID) phase, which includes Project Study Report/Project Development Support (PSR/PDS) and Project Approval and Environmental Document (PA & ED); and

WHEREAS, The project PSR/PDS has been approved by Caltrans and the Federal Highway Administration (FHWA) and requires completion of the second phase of (PID); and

WHEREAS, In order for the City to start preparing the Project Approval and Environmental Document (PA &ED), the services of an experienced consultant are needed; and

WHEREAS, Proposals for this phase of work were solicited from qualified consultants and advertised on the City's website, from which staff received three proposals from engineering consultants; and

WHEREAS, City staff and Caltrans evaluated the proposals and Dokken Engineering was found to be the most qualified consultant; and

WHEREAS, Staff negotiated with Dokken Engineering to provide the required services on a time and material basis, for an amount not-to-exceed $826,919; and

WHEREAS, Due to the complexity of the project and the potential for additional requirements from both Federal and State agencies, it is recommended that a contingency in the amount of $80,000 be established for additional services if needed; and

WHEREAS, There will be no fiscal impact to the General Fund. Funds for the Professional Services Agreement will be paid from TEA Grant Fund 313; and

WHEREAS, The TEA grant requires the City of Tracy pay a 20% matching fund; and

WHEREAS, Unused funds in the amount of $239,838 are available from the completed Corral Hollow Road Widening CIP 73014, which can be transferred to this CIP 73109;

NOW, THEREFORE, BE IT RESOLVED That City Council approves Professional Services Agreement No. DE 2 with Dokken Engineering of Folsom, California, to provide

professional services to prepare the Project Approval and Environmental Documents (PA & ED) for the I-205 Chrisman Road New Interchange Project – CIP 73109, Federal No. HPLULN-5192 (034) for a not-to-exceed amount of $826,919, authorizes the transfer of $239,838 from CIP 73014 to CIP 73109, authorizes the Mayor to execute the agreement, and authorizes the Development Services Director to approve amendments to this agreement for additional services, if needed, up to an amount of $80,000.

****

The foregoing Resolution _____ was adopted by the Tracy City Council on the 6th day of August, 2013 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST

_____
CITY CLERK

August 6, 2013

AGENDA ITEM 1.J

REQUEST

ACCEPTANCE OF THE JACKSON ALLEY & 9th STREET STORM DRAINAGE IMPROVEMENT CIP 73134A, COMPLETED BY EXTREME EXCAVATION OF TRACY, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed construction of the Jackson Alley & 9th Street Improvements Project in accordance with project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

The project scope of work included installation of approximately 160 square feet of six and 10 inch storm drainage pipes and associated catch basins, concrete, and AC pavement at Jackson Alley. The project plans and specifications were prepared in-house by engineering staff and the construction cost was estimated at $32,000.

Public Contract Code Section 22032 & 22036 allows the public agency to procure informal bids for projects with an anticipated cost less than $45,000. The project was advertised for informal bids on the City of Tracy website and builder's exchanges on February 21, 2013, and five bids were received on March 12, 2013.

On May 20, 2013, the City Manager, in accordance with TMC 2.20.260 executed the agreement with the lowest monetary bidder, Extreme Excavation of Tracy, California, in the amount of $29,624 for the Jackson Alley & 9th Street Improvements Project.

The project construction is complete. No change orders were issued. Status of budget and project costs is as follows:

A. Construction Contract Amount	$29,624
B. Design, Construction Inspections	$ 4,000
C. Citywide Project Management	$ 6,000
Total Project Costs	$39,624
Budgeted Amount	$42,000

The project has been completed within the available budget, on schedule, per plans, specifications, and City of Tracy standards.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's strategic plans.

FISCAL IMPACT

CIP 73134 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund.

RECOMMENDATION

That City Council accept, by resolution, construction of Jackson Alley & 9th Street Improvements Project - CIP 73134A, completed by Extreme Excavation of Tracy, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

Approved by: Andrew Malik, Development Services Director
R. Leon Churchill, Jr., City Manager

RESOLUTION 2013 - _____

ACCEPTING THE JACKSON ALLEY & 9TH STREET STORM DRAINAGE IMPROVEMENT CIP 73134-A, COMPLETED BY EXTREME EXCAVATION OF TRACY, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS**,** On May 20, 2013 the City Manager, in accordance with TMC 2.20.260 executed the agreement with the lowest monetary bidder, Extreme Excavation of Tracy, California, in the amount of $29,624 for the Jackson Alley & 9th Street Improvements Project; and

WHEREAS, The contractor has completed construction of the Jackson Alley & 9th Street Improvements Project in accordance with project plans, specifications, and contract documents; and

WHEREAS, Status of budget and project costs are estimated to be as follows:

A.	Construction Contract Amount	$29,624
B.	Design, construction Inspections	$ 4,000
C.	Citywide Project Management	$ 6,000
	Total Project Costs	$39,624
	Budgeted Amount	$42,000

WHEREAS, CIP 73134A is an approved Capital Improvement Project and there will be no impact to the General Fund;

NOW, THEREFORE BE IT RESOLVED, That City Council, by resolution, accept construction of Jackson Alley & 9th Street Improvements Project - CIP 73134A, completed by Extreme Excavation of Tracy, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

The foregoing Resolution _____ was adopted by the City Council on the 6th day of August, 2013, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.K

REQUEST

ACCEPTANCE OF THE MONITORING WELLS ABANDONMENT PROJECT– CIP 71033, COMPLETED BY TECHNICON ENGINEERING SERVICES, INC., OF FRESNO, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

During removal of underground storage tanks encountered for construction of various projects, monitoring wells were installed to meet state and county requirements. The excavated materials were hauled to a city-owned site on the east side of Corral Hollow Road, south of Linne Road. Approved Capital Improvement Project (CIP) 71033 involves abandonment of those wells and final resolution and characterization of excavated materials. The project will be completed in two phases. The first phase involves abandonment of the wells.

The contractor has completed construction of the Monitoring Wells Abandonment Project in accordance with project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

The scope of this phase of the project includes abandonment of 10 groundwater monitoring wells installed to monitor ground water where the City encountered old underground fuel storage tanks at five locations during construction or improvements involving various projects. These locations are: 560 Tracy Boulevard (Boyd Service Center), 99 West Sixth Street (Delta Disposal), 68 East Eleventh Street (Cage N Play), 29633 S. Tracy Boulevard (Tracy Municipal Airport), and 3900 Holly Drive (WWTP). These tanks were removed and the contaminated excavated soils were off hauled to City-owned property located at Corral Hollow Road adjacent to the Tracy Municipal Airport for further characterization and treatment. Groundwater monitoring at these five sites is completed and approved by San Joaquin County Environmental Health Department (SJEHD) and State and Central Valley Regional Water Quality Control Board (CVRWQCB) and the monitoring wells need to be abandoned to comply with SJEHD requirements.

The project plans and specifications were prepared by in-house engineering staff. The scope of work involved abandonment of 10 ground water monitoring wells at the locations listed above. Public Contract Code Sections 22032 & 22036 allows the public agency to procure informal bids for projects with anticipated costs less than $45,000. The project was advertised for informal bids on the City of Tracy website and construction builder's exchanges on March 12, 2013 and six bids were received on April 10, 2013.

On April 18, 2013, the City Manager, in accordance with TMC 2.20.260, executed the agreement with the second lowest monetary bidder, Technicon Engineering Services, Inc. of Fresno, California, in the amount of $28,876.50. The lowest monetary bidder could not meet the contract requirements and withdrew the bid.

The contractor has completed abandonment of the wells as specified in the contract documents. No change order was issued. Status of budget and project costs is as follows:

A. Construction Contract Amount	$ 28,876.50
B. Design, Construction Inspection (Estimated)	$ 2,000.00
C. Citywide Project Management (Estimated)	$ 3,000.00
• Total Project Costs	$ 33,876.50
• Budget Amount for Monitoring Wells Abandonment	$ 35,000.00
• Available Budget Amount	$ 84,714.00

The project has been completed within the available budget, on schedule, per plans, specifications, and City of Tracy standards. The remaining funds will be required for resolution and characterization of the excavated materials.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's strategic plans.

FISCAL IMPACT

CIP 71033 is an approved Capital Improvement Project with approximately $84,714 in available funding and there will be no fiscal impact to the General Fund. The remaining funds will be utilized to conduct additional soils testing and groundwater monitoring for City owned property located at Corral Hollow Road adjacent to the Tracy Municipal Airport where the excavated soils from the underground storage tanks were hauled for characterization and monitoring. These requirements are mandated by the Central Valley Regional Water Quality Control Board (CVRWQCB).

RECOMMENDATION

That City Council accept, by resolution, construction of the Monitoring Wells Abandonment Project – CIP 71033, completed by Technicon Engineering Services, Inc. of Fresno, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

Approved by: Andrew Malik, Development Services Director
R. Leon Churchill, Jr., City Manager

RESOLUTION 2013 - _____

ACCEPTING THE MONITORING WELLS ABANDONMENT– CIP 71033, COMPLETED BY TECHNICON ENGINEERING SERVICES, INC., OF FRESNO, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS**,** On April 18, 2013 the City Manager in accordance with TMC 2.20.260, executed the agreement with the second lowest monetary bidder Technicon Engineering Services, Inc. of Fresno, California, in the amount of $28,876.50; and

WHEREAS, The contractor has completed construction of the Monitoring Wells Abandonment Project in accordance with project plans, specifications, and contract documents; and

WHEREAS, Status of budget and project costs are estimated to be as follows:

A. Construction Contract Amount	$ 28,876.50
B. Design, construction inspection (Estimated)	$ 2,000.00
C. Citywide Project management (Estimated)	$ 3,000.00
Total Project Costs	$ 33,876.50
Budget Amount for Monitoring Wells Abandonment	$ 35,000.00
Budgeted Amount	$ 84,714.00

WHEREAS, CIP 71033 is an approved Capital Improvement Project with approximately $84,714 available funding and there will be no fiscal impact to the General Fund; and

WHEREAS, The remaining funds will be utilized to conduct additional soils testing and groundwater monitoring for City owned property located at Corral Hollow Road adjacent to the Tracy Municipal Airport where the excavated soils from the underground storage tanks were off hauled for characterization and monitoring;

NOW, THEREFORE BE IT RESOLVED, That City Council accepts construction of the Monitoring Wells Abandonment Project – CIP 71033, completed by Technicon Engineering Services, Inc., of Fresno, California, and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

****

The foregoing Resolution 2013 - _____ was adopted by the City Council on the 6th day of August, 2013, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

August 6, 2013

AGENDA ITEM 1.L

REQUEST

RESCIND RESOLUTION 2013-077 AND APPROVE FOUR REIMBURSEMENT AGREEMENTS WITH CORDES RANCH PROPERTY OWNERS FOR THE ACQUISITION OF WATER SUPPLY

EXECUTIVE SUMMARY

The City of Tracy is in the process of purchasing water capacity and supply in the South County Water Supply Project currently available to the City of Lathrop that is in excess of their projected needs. The City also intends to purchase additional water supply in the South County Water Supply Project directly from the operators of the project, the South San Joaquin Irrigation District (SSJID). The City of Tracy has need for this additional water supply and a separate agenda item relates to the necessary agreement between the City of Tracy and Lathrop to perfect the acquisition by Tracy. In the future, a separate agreement with SSJID will address the water supply purchase from SSJID. This agenda item relates to the reimbursement by four property owners within the Cordes Ranch project who would benefit from the water supply acquisitions to meet their project water demands.

DISCUSSION

To facilitate the timely purchase of the City of Lathrop's excess water capacity and supply (herein referred to as Lathrop Water) from the from the South County Water Supply Project, the City Council approved a supplemental appropriation and loan from the Wastewater Enterprise Fund to the Water Fund in the amount of $5 million. The potential purchase of additional South County Water Supply Project water capacity and supply directly from SSJID will be the subject of a future agenda item, once negotiations have commenced and agreements have been drafted. However, processing of such negotiations and draft agreements will involve staff, legal, and consultant costs.

To recover both the $5 million loan to the Water Fund for the Lathrop Water and the costs to process potential additional South County Water Supply Project water capacity and supply acquisition directly from SSJID, reimbursement agreements with potential benefiting parties have been drafted for City Council consideration and approval. There are four separate agreements with the four main property owners and proponents of the Cordes Ranch project: Prologis; GBC Global Investments, Inc.; Delta Properties; and TWL Investors, LLC.

The agreements stipulate that the City shall recover its costs for the Lathrop Water purchase plus 2.5% interest with funds received from the benefitting parties in payments to the City over a two year period beginning in September of 2013. The agreements stipulate that costs associated with procuring additional water supply and capacity directly from SSJID shall commence with payments to the City beginning in September 2013. Security in the form of letters of credit is required to secure and guarantee the performance by the benefitting parties.

On June 4, 2013, City Council approved reimbursement agreements with the Cordes Ranch property owner (Resolution 2013-077). Since that time, the proposed agreements have been subject to minor modifications. Therefore, staff is recommending that City Council rescind Resolution 2013-077 and reapprove these agreements as modified.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's four strategic plans.

FISCAL IMPACT

There is no fiscal impact to the General Fund. This agenda item establishes reimbursement agreements whereby parties benefitting from the City's acquisition of additional water supplies and capacity are required to fund all of the costs associated with the water procurement.

RECOMMENDATION

That the City Council, by resolution, approve four reimbursement agreements between the City and Prologis; GBC Global Investments, Inc.; Delta Properties; and TWL Investors, LLC., and authorize the Mayor to execute the agreement.

Prepared by Bill Dean, Assistant Development Services Director

Reviewed by Andrew Malik, Development Services Director, and
Steve Bayley, Project Specialist

Approved by R. Leon Churchill, Jr., City Manager

RESOLUTION _____

RESCIND RESOLUTION 2013-077 AND APPROVE REIMBURSEMENT AGREEMENTS WITH PROLOGIS, LP; GBC GLOBAL INVESTMENTS, INC; DELTA PROPERTIES; AND TWL INVESTORS, LLC FOR THE ACQUISITION OF WATER CAPACITY AND SUPPLY AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENTS

WHEREAS, The City of Lathrop has a two million gallons per day surplus of treated water capacity and 1,120 acre-feet of surplus water supply in the South County Water Supply Project; and

WHEREAS, The City of Lathrop will retain sufficient capacity and water supply for their community needs while proposing to sell Tracy two million gallons per day of surplus capacity and 1,120 acre-feet of surplus water supply; and

WHEREAS, The City intends to separately acquire additional water supplies from South County Water Supply Project; and

WHEREAS, The City of Tracy intends to put this additional capacity and water supply to immediate use intended for potable water demands for development of lands within Urban Reserve 6 of the City's General Plan, otherwise known as the Cordes Ranch project; and

WHEREAS, The Lathrop-Tracy Purchase Agreement is not effective until a developer cost recovery agreement or agreements and securities are in place; and

WHEREAS, Four property owners within General Plan Urban Reserve 6 have committed to fund the water capacity and supply in the amount of $5 million with payments made to the City over the course of two years.

WHEREAS, on June 4, 2013 the City Council approved reimbursement agreements with four Cordes Ranch property owners via Resolution 2013-077, and since that time the agreements have required minor modifications;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby rescinds Resolution 2013-077 and approves four separate reimbursement agreements with Prologis, LP; GBC Global Investments, Inc.; Delta Properties; and TWL Investors, LLC, attached herein as Exhibit 1, Exhibit, 2, Exhibit 3, and Exhibit 4, respectively to fund the City's purchase of water supply and capacity from the City of Lathrop and the South County Water Supply Project, and authorizes the Mayor to execute the agreements.

* * * * * * * * * * * * * *

The foregoing Resolution was adopted by the Tracy City Council on the 6th day of August, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

AGREEMENT BETWEEN THE CITY OF TRACY AND PROLOGIS, L.P., REGARDING REIMBURSEMENT FOR ACQUISITION OF WATER SUPPLY AND CONVEYANCE CAPACITY

THIS AGREEMENT ("Agreement") is entered into on August 6, 2013 ("***Effective Date***") by and between the City of Tracy, a municipal corporation of the State of California ("***City***") and Prologis, L.P., a Delaware limited partnership ("***Prologis***"). City and Prologis are sometimes referred to herein individually as the "***party***" and collectively as "***parties***."

RECITALS

This Agreement is predicated on the following facts, which are hereby incorporated into and made a part of this Agreement.

A. Prologis owns approximately one thousand two hundred and thirty eight (1,238) acres of land in unincorporated San Joaquin County, adjacent to the City's municipal boundaries and within the City's sphere of influence, as more particularly described and shown on attached Exhibit A ("***Prologis Property***"). The Prologis Property is within a larger planning area designated Urban Reserve 6 in the City's current General Plan, which consists of a total of approximately one thousand seven hundred and eighty (1,780) acres, as shown on attached Exhibit B ("***Urban Reserve 6***").

B. GBC Global Investments, Inc., a California corporation ("***GBC***") owns approximately one hundred and ninety four (194) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***GBC Property***"). TWL Investors, LLC, a California limited liability company ("***TWL***") owns approximately one hundred eight (108) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***TWL Property***"). R&B Delta, LLC, a California limited liability company ("***Delta***") owns approximately one hundred ten (110) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***Delta Property***"). Together, GBC, TWL and Delta may be referred to herein as the "***Other Participating Property Owners***."

C. City is currently preparing a specific plan for Urban Reserve 6 pursuant to Section 65450, *et seq.*, of the California Government Code (the "***Cordes Ranch Specific Plan***"), and Prologis and the Other Participating Property Owners are currently seeking various land use entitlements, permits and approvals from City to develop their respective properties in Urban Reserve 6 following City's adoption of the Cordes Ranch Specific Plan.

D. City is one of four (4) cities that participate in the South County Water Supply Project ("***SCWSP***") with the South San Joaquin Irrigation District ("***SSJID***") for the purchase, treatment and conveyance of potable water supplies. The other cities are the City of Lathrop ("***Lathrop***"), the City of Escalon, and the City of Manteca. Pursuant to separate agreements with SSJID, each participating city is allocated a specific volume of treated water supplies and a specific volume of conveyance capacity in the SCWSP system.

E. Under its agreement with SSJID, Lathrop is currently allocated treated water supplies and conveyance capacity in excess of its current and future projected needs.

F. City desires to purchase from Lathrop an entitlement to approximately one thousand one hundred and twenty (1,120) acre feet annually of water supplies and two (2) million gallons per day ("***MGD***") of treatment and conveyance capacity (together, the "***Lathrop Water Supply***").

City and Lathrop currently anticipate that the purchase price for the Lathrop Water Supply will be five million dollars ($5,000,000), and further anticipate executing an agreement for Lathrop's sale and City's purchase of the Lathrop Water Supply not later than August 15, 2013.

G. In addition to the Lathrop Water Supply, City desires to acquire from SSJID an entitlement to approximately Two Thousand (2,000) acre feet annually of water supplies ("***SSJID Water Supply***") to further supplement City's water portfolio. City currently anticipates that its acquisition costs for the SSJID Water Supply will be no greater than one million five hundred thousand dollars ($1,500,000), and further anticipates executing an agreement for SSJID to document City's acquisition of the SSJID Water Supply not later than December 31, 2014.

H. By entering into this Agreement, the parties hereby desire to memorialize the terms and conditions under which Prologis shall reimburse City for Prologis' share of all of City's costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply as set forth more fully herein.

I. It is anticipated that each of the Other Participating Property Owners will enter into substantially similar reimbursement agreements with City, which will provide for each of the Other Participating Property Owners to reimburse City for their respective fair share of costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply. As set forth herein, the parties acknowledge and agree that the validity and effectiveness of each reimbursement agreement will depend upon the validity and effectiveness of the other three agreements, such that all four agreements must be executed for any single agreement to have any validity or effect.

J. City, Prologis and the Other Participating Property Owners have agreed that, for purposes of their respective reimbursement agreements with City, their respective fair shares of the costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply are as follows (each, "Fair Share"):

Prologis:	(73.49%)
GBC:	(12.84%)
Delta:	(6.72%)
TWL:	(6.95%)

In consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

AGREEMENT

1. Prologis' Obligations Relating to Lathrop Water Supply.

At the time that City, Lathrop and SSJID have executed the necessary agreements for Lathrop to sell to City, and City to purchase from Lathrop, the Lathrop Water Supply, then Prologis shall reimburse City for its Fair Share of the cost to City of acquiring the Lathrop Water Supply from Lathrop and SSJID as set forth below.

(a) Prologis shall reimburse City for Prologis' Fair Share of the actual purchase price to City of the Lathrop Water Supply, as set forth in the purchase and sale agreements between City and Lathrop (hereafter, the "***Lathrop Actual Purchase Price***"); provided, however, that if the

Lathrop Actual Purchase Price exceeds five million dollars ($5,000,000), then City shall have no obligations under Section 3 of this Agreement with respect to the Lathrop Water Supply unless and until Prologis and each of the Other Participating Property Owners agrees, in a written amendment to their respective reimbursement agreements, that each will pay their Fair Share of any such additional amount. Notwithstanding the foregoing, the parties agree that Prologis shall have the right, but not the obligation, to pay the Fair Share of any Other Participating Property Owner that declines to pay such additional amount, in which case, City's reimbursement agreement with each Other Participating Property Owner that declined to pay its Fair Share of such additional amount shall be null and void as to the Lathrop Water Supply, and City's reimbursement agreement with each Other Participating Property Owner that has agreed, in a written amendment to its reimbursement agreement, to pay such additional amount, shall remain valid and in effect.

(b) Not later than September 15, 2013, Prologis shall pay to City its Fair Share of the amount of five hundred thousand dollars ($500,000) ("***Initial Lathrop Water Supply Payment***"), which Fair Share constitutes three hundred sixty seven thousand four hundred and forty six dollars and ninety four cents ($367,446.94).

(c) Prologis shall reimburse City for Prologis' Fair Share of the remainder of the Lathrop Actual Purchase Price in six (6) equal, quarterly installments on the following dates (collectively, the "***Installment Payments***") unless Prologis elects to pre-pay the entire remaining amount due.

(i) December 31, 2013
(ii) March 31, 2014
(iii) June 30, 2014
(iv) September 30, 2014
(v) December 31, 2014
(vi) March 31, 2015

The amount of each Installment Payment, and the dollar amount of Prologis' Fair Share of each Installment Payment, shall be determined by the Lathrop Actual Purchase Price. As of the date of the parties' execution of this Agreement, the parties anticipate that the Lathrop Actual Purchase Price will be five million dollars ($5,000,000). In the event that the Lathrop Actual Purchase Price is $5,000,000, then the amount of each Installment Payment shall be seven hundred fifty thousand dollars ($750,000), and the dollar amount of Prologis' Fair Share of each Installment Payment shall be five hundred fifty one thousand one hundred and seventy dollars and forty two cents ($551,170.42). In the event that the Lathrop Actual Purchase Price is more than, as provided herein, or less than $5,000,000, then the amount of each Installment Payment and the dollar amount of Prologis' Fair Share of each Installment Payment shall be increased or decreased accordingly.

(d) City shall be entitled to interest on the outstanding balance of the Lathrop Actual Purchase Price, at the rate of Two and One Half Percent (2.5%) per year, payable as follows:

(i) On the same day that Prologis pays its Fair Share of the Initial Lathrop Water Supply Payment, Prologis shall pay its Fair Share of the interest due to City, calculated from the date that City acquires the Lathrop Water Supply, as set forth in the purchase and sale agreement between City and Lathrop, to the date that Prologis pays its Fair Share of the Initial Lathrop Water Supply Payment.

(ii) On the same day that Prologis pays its Fair Share of each Installment Payment, Prologis shall pay its Fair Share of the interest due to City on the outstanding balance of the Lathrop Actual Purchase Price, calculated from the date of Prologis' preceding payment under this Agreement to the date of such Installment Payment.

(e) Not later than the Effective Date of this Agreement, Prologis shall provide to City an irrevocable, standby letter of credit (the "Letter of Credit"), in the amount of three million six hundred seventy four thousand four hundred and sixty nine dollars and forty four cents ($3,674,469.44), which amount is equal to Prologis' Fair Share of the anticipated purchase price of the Lathrop Water Supply, to secure and guarantee Prologis' performance of its obligation to make payments under this Agreement. The Letter of Credit shall be maintained in effect (i) until Prologis has fully reimbursed City for Prologis' Fair Share of the entire Lathrop Actual Purchase Price or (ii) unless the parties' obligations under this Section 1 are terminated in accordance with Section 1(a) above, in which case Prologis' obligations to maintain the Letter of Credit shall be terminated accordingly; or, if Prologis is unable to obtain a Letter of Credit with a duration longer than twelve months, then Prologis shall renew or replace the Letter of Credit at least ten (10) days prior to its expiration each year. If Prologis fails to renew or replace the Letter of Credit as herein required, then City may draw down the entire amount of the Letter of Credit prior to its expiration for purposes of satisfying the remaining payment obligations relating to the Lathrop Water Supply of Prologis hereunder. As Prologis pays its Fair Share of the Initial Lathrop Water Supply Payment and each Installment Payment to City, as provided herein, the amount of the Letter of Credit may be reduced by the dollar amount of the payments actually made by Prologis; provided, however, that at no time during the effective period of the Letter of Credit shall the amount of the Letter of Credit be less than the total amount of Prologis outstanding reimbursement obligation for the Lathrop Water Supply under this Agreement. The Letter of Credit shall be issued by a bank approved by City, which approval shall not be unreasonably withheld or delayed, and be in a form that is reasonably acceptable to the City Attorney. The parties hereby acknowledge and agree that the provision of the Letters of Credit by Prologis and the Other Participating Property Owners pursuant to their respective reimbursement agreements is a material consideration for City's entering into this Agreement, that City would not have entered into this Agreement or reimbursement agreements with the Other Participating Property Owners without the assurance that Prologis and the Other Participating Property Owners would provide the required Letters of Credit, and therefore the failure of Prologis or any Other Participating Property Owner to provide and maintain the required Letter of Credit shall render City's obligations with respect to the Lathrop Water Supply null and void and of no further force and effect. Notwithstanding the foregoing, in the event that any Other Participating Property Owner does not provide and maintain its required Letter of Credit in accordance with this Section 1(e), then Prologis shall have the right, but not the obligation, to replace its Letter of Credit with an amended Letter of credit describing the additional secured obligation of the Other Participating Property Owner and increasing the amount of its Letter of Credit to cover the outstanding amount of said Other Participating Property Owner, in which case the parties' obligations with respect to the Lathrop Water Supply shall remain in full force and effect.

(f) The parties hereby acknowledge and agree that, in addition to Prologis' obligation to reimburse City for Prologis' Fair Share of the full Lathrop Actual Purchase Price, Prologis shall reimburse City for Prologis' Fair Share of all of City's actual costs incurred in acquiring the Lathrop Water Supply, including costs incurred for City staff and consultants' time, pursuant to separate cost recovery agreements between City and Prologis.

2. Prologis' Obligations Relating to SSJID Water Supply.

(a) Not later than September 1, 2013, Prologis shall pay to City its Fair Share of the amount of one hundred fifty thousand dollars ($150,000) ("***Initial SSJID Water Supply Payment***"), which Fair Share constitutes one hundred ten thousand two hundred and thirty four dollars and eight cents ($110,234.08).

(b) Not later than thirty (30) days following Prologis' receipt of notice from City that City has executed an agreement with SSJID for City's acquisition of the SSJID Water Supply, Prologis shall pay its Fair Share of the actual acquisition price ("***SSJID Actual Purchase Price***") to be paid by City for the SSJID Water Supply pursuant to such agreement between City and SSJID, provided that the sum of the SSJID Actual Purchase Price and the Initial SSJID Water Supply Payment does not exceed one million five hundred thousand dollars ($1.5 million). If City cannot acquire the SSJID Water Supply for $1.5 million or less (including the Initial SSJID Water Supply Payment), then City shall have no obligation under this Agreement to obtain the SSJID Water Supply unless and until Prologis and all of the Other Participating Property Owners agree, in a written amendment to their respective reimbursement agreements, that they are each willing to pay their respective Fair Share of any such additional amount. Absent such written agreements, if the sum of the SSJID Actual Purchase Price and the Initial SSJID Water Supply Payment to acquire the SSJID Water Supply would exceed $1.5 million, the parties shall have no further obligations hereunder with respect to the SSJID Water Supply. Notwithstanding the foregoing, the parties agree that Prologis shall have the right, but not the obligation, to cover the Fair Share of any Other Participating Property Owner that elects not to proceed in the event of any additional costs, and in which case, City shall proceed with the acquisition of the SSJID Water Supply as contemplated herein.

(c) Consistent with Section 1 above, the parties hereby acknowledge and agree that, in addition to Prologis' obligation to reimburse City for Prologis' Fair Share of the full SSJID Actual Purchase Price, Prologis shall reimburse City for Prologis' Fair Share of all of City's actual costs incurred in acquiring the SSJID Water Supply, including costs incurred for City staff and consultants' time, pursuant to separate cost recovery agreements between City and Prologis.

3. City Obligations.

(a) City shall use good faith and diligent efforts to complete its acquisition of the Lathrop Water Supply on or before August 15, 2013, and to complete its acquisition of the SSJID Water Supply on or before December 31, 2014, subject to and consistent with its legal duties and obligations as a municipal corporation in the State of California, to provide City with sufficient potable water supplies to provide potable water service to Urban Reserve 6 consistent with the service obligations contemplated in the Water Supply Assessment for the Cordes Ranch Specific Plan dated January 2013 (the "***WSA***") and the City of Tracy Cordes Ranch Specific Plan Project Draft Environmental Impact Report dated April 5, 2013 (the "***EIR***").

(b) Nothing in this Agreement shall be interpreted as committing City to a definite course of action with respect to land use planning or any development proposals for or relating to Urban Reserve 6 or its consideration of the proposed Cordes Ranch Specific Plan and any related City permits and approvals. City hereby expressly retains its full discretion in considering land use plans and proposals for Urban Reserve 6, including, without limitation, the ability to approve or decline to approve the proposed Cordes Ranch Specific Plan and any related City permits and approvals, and this Agreement is in no way binding on City's discretion in this regard.

(c) The parties further acknowledge and agree that by this Agreement, City shall have no obligation to reimburse Prologis for the funding provided for herein. Notwithstanding the foregoing, City shall use good faith and diligent efforts to facilitate the reimbursement to Prologis from any other property owners that benefit from City's acquisition of the Lathrop Water Supply or the SSJID Water Supply, subject to and consistent with its legal duties and obligations as a municipal corporation in the State of California, as contemplated herein.

(d) In the event the City Council approves the Cordes Ranch Specific Plan and any related City permits and approvals and completes its acquisitions of the Lathrop Water Supply and/or the SSJID Water Supply as contemplated by this Agreement, and provided that the water demands generated by development in Urban Reserve 6 do not exceed the water demand projections for Urban Reserve 6 set forth in the WSA and the EIR, the parties further acknowledge and agree that Prologis' reimbursements made under this Agreement (including any additional payments that may be made on behalf of any Other Participating Property Owner pursuant to Sections 1(a), 1(e) and/or 2(b) above) shall be reflected in any Finance Implementation Plan for Urban Reserve 6 and the Cordes Ranch Specific Plan that is or becomes applicable to Prologis.

4. Condition Precedent to Effectiveness of City's and Prologis' Obligations

City's and Prologis' obligations set forth in Section 1, Section 2 and Section 3 above, shall not be effective unless and until City has received from each of the Other Participating Property Owners, a reimbursement agreement that is substantially similar to this Agreement, as determined by City, and that is signed by an authorized representative of each of the Other Participating Property Owners, requiring each of the Other Participating Property Owners to reimburse City for their respective Fair Share of all of City's costs to acquire the Lathrop Water Supply and the SSJID Water Supply, including costs for City staff time and consultants' time. In the event of a conflict between the language of this Section 4 and any other language or provision of this Agreement, this Section 4 shall prevail.

5. Attorneys' Fees.

In the event any legal action is commenced by a party to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs and expenses incurred related thereto.

6. Modifications.

This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

7. Waivers.

Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

8. Jurisdiction and Venue.

The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any

kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

9. Entire Agreement.

This Agreement, including all attached Exhibits, comprises the entire integrated understanding between the parties. This Agreement supersedes all prior negotiations, representations or agreements.

10. Notices.

All notices to be given hereunder shall be in writing and may be personally delivered or mailed to the respective party at the addresses set forth below (either party may modify its address for notice by providing written notice to the other party). Any notice shall be deemed to have been given and received on the first to occur of: (a) actual receipt at the address set forth below; or (b) three working days following the deposit in the United States Mail of registered or certified mail sent to the address set forth below.

City:

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
209.831.6000 (tel)
209.831.6120 (fax)
Attn: City Manager

With a copy to:

City Attorney's Office of City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
209.831.6130 (tel)
209.831.6137 (fax)
Attn: City Attorney

Prologis
Pier 1, Bay 1
San Francisco, CA 94111
415.394.9000 (tel)
415.394.9001 (fax)
Attn: Dan Letter

With a copy to:

Miller Starr Regalia
1331 North California Blvd., Fifth Floor
Walnut Creek, CA 94596
925.935.9400 (tel)
925.933.4126 (fax)
Attn: Nadia Costa

11. Term of Agreement.

The term of this Agreement shall commence on the Effective Date and shall remain effective until Prologis has satisfied its reimbursement obligations as set forth herein, or unless and until the Agreement is terminated pursuant to its terms, including but not limited to Section 1(e) above.

12. Indemnification.

Prologis shall indemnify, defend and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs and expenses of any kind (including court costs and attorney's fees) resulting from or arising out of this Agreement except in the event and to the extent of City's gross negligence or willful misconduct.

13. Defense of Legal Challenge.

In the event of any administrative, legal, equitable or other action or proceeding instituted by any person, entity or organization, to challenge this Agreement (collectively, "***Challenge***"), Prologis shall defend and indemnify City against any and all fees and costs arising out of the defense of such Challenge, including the fees and costs of City's own in-house or special counsel retained to protect City's interests. In the event of any such Challenge, each party shall be entitled to legal counsel of its choice, at Prologis' expense, and the parties and their respective counsel shall cooperate with each other in the defense of any such Challenge, including in any settlement negotiations. If a court in any such Challenge in a final judgment awards any form or amount of money damages to such third party as a result thereof, or any attorneys' fees or costs to such third party, Prologis shall bear full and complete responsibility to comply with the requirements of such award, and hereby agrees to pay Prologis' Fair Share of all damages, fees and costs on behalf of City.

14. No Money Damages.

The parties hereby acknowledge that City would not have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its negotiation, preparation, implementation or application. The parties further acknowledge that it is a material part of Prologis' consideration to City that City shall not be at any risk whatsoever to liability for money damages relating to or arising from this Agreement, and except for non-damages remedies, Prologis, on the one hand, and City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any

claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance, which seeks to impose any money damages, whatsoever, upon the parties because the parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement

15. Assignment.
Prologis shall have the right to sell, assign, or transfer its rights under this Agreement, in whole or in part, to any individual or entity ("***Assignee***") that secures an interest in the Prologis Property, subject to City's consent, which shall not be unreasonably withheld or delayed, and provided that the Assignee expressly assumes said obligations hereunder. At least thirty (30) days prior to any proposed assignment, Prologis shall notify City of its intent to assign this Agreement (in whole or in part) and shall provide to City a copy of the proposed Assignment and Assumption Agreement that would reflect the Assignee's express assumption of any and all obligations hereunder.

16. Signatures.

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Prologis and City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY
City of Tracy, a municipal corporation

By: _____

Its: _____

Date: _____

Attest:

_____

By: _____

Its: CITY CLERK

Date: _____

Approved as to form:

By: _____

Its: CITY ATTORNEY

Date: _____

PROLOGIS
Prologis, L.P., a Delaware limited partnership

By: _____

Its: Senior Vice President

Date: July 31, 2013

Exhibit A

Legal Description: Prologis., LP Property

Real property in the unincorporated area of the County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL A:

PARCEL 2 AS SHOWN ON NOTICE OF LOT LINE ADJUSTMENT NO. LA-01-0017 AS EVIDENCED BY DOCUMENT RECORDED APRIL 26, 2001 AS INSTRUMENT NO. 2001-062040 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
THE NORTH ½ OF SECTION 27 TOGETHER WITH THE SOUTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN.
EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED IN THE DEED TO THE UNITED STATES OF AMERICA, RECORDED FEBRUARY 25, 1945 IN VOLUME 1103 OF OFFICIAL RECORDS, PAGE 464, SAN JOAQUIN COUNTY RECORDS, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 27 AND
RUNNING THENCE NORTH 00° 20. WEST, ALONG THE WESTERLY BOUNDARY OF SAID SECTION 27, A DISTANCE OF 405.3 FEET TO A POINT, SAID POINT BEING SOUTH 00° 20. EAST 2234.5 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 27;
THENCE CONTINUING NORTH 00° 20. WEST, ALONG SAID WESTERLY BOUNDARY, 252.8 FEET;
THENCE LEAVING SAID BOUNDARY, SOUTH 48° 17. EAST 481.7 FEET;
THENCE SOUTH 35° 17. EAST 432.1 FEET TO A POINT IN THE SOUTHERLY BOUNDARY OF THE NORTHWEST QUARTER OF SAID SECTION 27, SAID POINT IS SOUTH 89° 31. EAST 605.3 FEET FROM THE POINT OF BEGINNING;
THENCE NORTH 89° 31. WEST, ALONG LAST NAMED BOUNDARY, 215.7 FEET TO A POINT;
THENCE CONTINUING NORTH 89° 31. WEST, ALONG SAID BOUNDARY, 389.6 FEET TO THE POINT OF BEGINNING.
ALSO EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED IN THE DEED TO THE UNITED STATES OF AMERICA, RECORDED MAY 15, 1947 IN VOLUME 1065 OF OFFICIAL RECORDS, PAGE 227, SAN JOAQUIN COUNTY RECORDS, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT THAT IS ON THE NORTHERLY BOUNDARY OF THE SOUTH ½ OF SAID SECTION 27, AND IS DISTANT THERE ALONG, SOUTH 89° 31. EAST 389.6 FEET FROM THE WEST ¼ CORNER OF SAID SECTION 27, AND
RUNNING THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89° 31. EAST 215.7;
THENCE LEAVING SAID BOUNDARY AND RUNNING SOUTH 35° 17. EAST 127.2 FEET;
THENCE SOUTH 61° 36. EAST 1374.2 FEET;
THENCE SOUTH 55° 51. EAST 455.1 FEET;
THENCE NORTH 25° 54. EAST 367.6 FEET;
THENCE SOUTH 64° 06. EAST 80.00 FEET;
THENCE SOUTH 25° 54. WEST 379.2 FEET;
THENCE SOUTH 55° 41. EAST 2161.3 FEET;

THENCE SOUTH 23° 19. EAST 370.6 FEET;
THENCE SOUTH 23° 19. EAST 50.0 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF THE EXISTING RIGHT OF WAY FOR THE COUNTY ROAD ALONG THE SOUTHERLY BOUNDARY OF SAID SECTION 27;
THENCE SOUTH 23° 19. EAST 21.9 FEET TO A POINT THAT IS ON THE SOUTHERLY BOUNDARY OF SAID SECTION 27 AND IS DISTANT THERE ALONG NORTH 89° 25. WEST 1006.8 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 27;
THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID SECTION 27, NORTH 89° 25. WEST 166.2 FEET;
THENCE CONTINUING ALONG SAID SOUTHERLY BOUNDARY, NORTH 89° 25. WEST 179.7 FEET;
THENCE LEAVING SAID BOUNDARY AND RUN NORTH 18° 21. WEST 21.1 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF THE EXISTING RIGHT OF WAY FOR SAID COUNTY ROAD;
THENCE NORTH 18° 21. WEST 40.0 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT C;
THENCE NORTH 18° 21. WEST 151.3 FEET;
THENCE NORTH 55° 51. WEST 316.2 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER AS POINT D;
THENCE NORTH 55° 51. WEST 2044.6 FEET;
THENCE NORTH 64° 13. WEST 1341.4 FEET;
THENCE NORTH 44° 08. WEST 299.4 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT A;
THENCE NORTH 44° 08. WEST 423.7 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT B;
THENCE NORTH 44° 08. WEST 67.8 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF THE SOUTH 1/2 OF SAID SECTION 27 AND IS DISTANT THERE ALONG NORTH 89° 31. WEST 220.0 FEET FROM THE POINT OF BEGINNING;
THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89° 31. EAST 220.00 FEET TO THE POINT OF BEGINNING.
ALSO EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED
IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 14, 1962 IN VOLUME 2595 OF OFFICIAL RECORDS, PAGE 390, SAN JOAQUIN COUNTY RECORDS, SAID PARCELS

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL NO. 1:
COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SCHULTE ROAD, COUNTY ROAD NO. 01-281 (A ROAD 60-FEET WIDE) WITH THE EAST LINE OF PATTERSON PASS ROAD, COUNTY ROAD NO. 01-280 (A ROAD 60-FEET WIDE); SAID INTERSECTION BEARS NORTH 44° 32. 52" EAST 43.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 27;
THENCE ALONG SAID EAST LINE, NORTH 00° 19. 04" EAST 301.97 FEET TO THE TRUE POINT OF BEGINNING; SAID POINT BEING AT THE COORDINATES Y=446,917.88 FEET AND X=1,702,034.86 FEET;
THENCE, CONTINUING ALONG SAID EAST LINE, NORTH 00° 19. 04" EAST 426.72 FEET;
THENCE SOUTH 05° 06. 42" EAST 100.45 FEET;
THENCE SOUTH 00° 17. WEST 252.65 FEET;
THENCE SOUTH 07° 44. 03" WEST 74.72 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 2:
BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SCHULTE ROAD, COUNTY ROAD NO. 01-281 (A ROAD 60-FEET WIDE) WITH THE EAST LINE OF PATTERSON PASS ROAD, COUNTY ROAD NO. 01-280 (A ROAD 60-FEET WIDE); SAID INTERSECTION BEARS NORTH 44°32. 52" EAST 43.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 27, SAID INTERSECTION BEING AT THE COORDINATES Y=446,615.92 FEET AND X=1,702,033.19 FEET;

THENCE ALONG SAID EASTERLY LINE OF PATTERSON PASS ROAD, NORTH 00° 19. 04" EAST 65.00 FEET;
THENCE SOUTH 45° 27. 08" EAST 90.69 FEET TO SAID NORTHERLY LINE OF SCHULTE ROAD;
THENCE ALONG SAID NORTHERLY LINE, NORTH 88° 46. 38" WEST 65.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN THE NORTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN;
THENCE ALONG THE EAST LINE OF SAID SECTION 27, SOUTH 0° 22. 36" WEST 2635.22 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 88° 53. 27" WEST 1652.51 FEET;
THENCE ALONG A LINE PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 00° 22. 36" EAST 2636.66 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE NORTH LINE OF NORTHEAST QUARTER OF SAID SECTION 27, SOUTH 88° 50. 27" EAST 1652.53 FEET TO THE POINT OF BEGINNING.

PARCEL B:

PARCEL 1 AS SHOWN ON NOTICE OF LOT LINE ADJUSTMENT NO. LA-01-0017 AS EVIDENCED BY DOCUMENT RECORDED APRIL 26, 2001 AS INSTRUMENT NO. 2001-062040 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN THE NORTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN;
THENCE ALONG THE EAST LINE OF SAID SECTION 27, SOUTH 0° 22. 36" WEST 2635.22 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 88° 53. 27" WEST 1652.51 FEET;
THENCE ALONG A LINE PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 00° 22. 36" EAST 2636.66 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE NORTH LINE OF NORTHEAST QUARTER OF SAID SECTION 27, SOUTH 88° 50. 27" EAST 1652.53 FEET TO THE POINT OF BEGINNING.

PARCEL C:

ALL THAT PORTION OF THE NORTHEAST ¼ OF SECTION 26 TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING NORTH AND EAST OF THE NORTHERLY LINE OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT, AND ALSO ALL THAT PORTION OF THE NORTHWEST ¼ OF SAIDSECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING NORTH AND EAST OF THE NORTHERLY LINE OF THE SAID UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT.

PARCEL C-1:

AN EASEMENT 30 FEET IN WIDTH ALONG THE SOUTHERLY PORTION OF THE SOUTHWEST ¼ OF SECTION 23, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTH OF THE SOUTHWESTERLY BOUNDARY LINE OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT BEING DESCRIBED AS PARCEL A AS SHOWN ON THE PARCEL MAP RECORDED IN BOOK OF PARCEL MAPS, BOOK 3, PAGE 114, SAN JOAQUIN COUNTY RECORDS AS RESERVED IN AN INSTRUMENT RECORDED JANUARY 13, 1989 RECORDER'S INSTRUMENT NO. 89003100, SAN JOAQUIN COUNTY RECORDS.

PARCEL D:

THE EAST ½ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTH OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT.

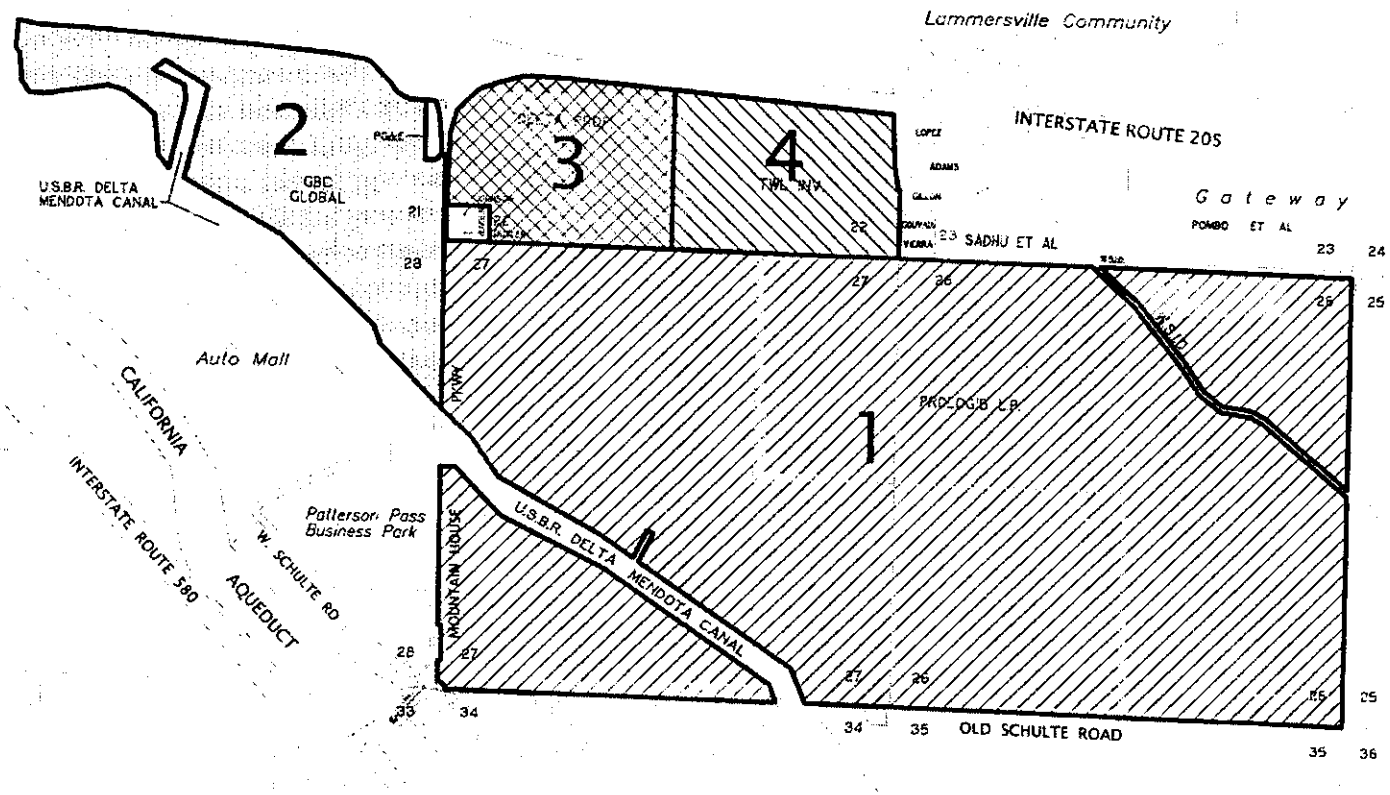
PARCEL E:

THE SOUTHWEST ¼ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN.

PARCEL F:

THE NORTHWEST ¼ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTHWESTERLY OF THE WEST SIDE IRRIGATION UPPER MAIN CANAL.

APN:
209-120-030-000 (AFFECTS PORTION OF PARCEL A)
209-120-040-000 (AFFECTS PORTION OF PARCEL A)
209-120-050-000 (AFFECTS PARCEL B)
209-120-060-000 (AFFECTS PORTION OF PARCEL A)
209-120-070-000 (AFFECTS PORTION OF PARCEL A)
209-220-030-000 (AFFECTS PARCEL D)
209-220-040-000 (AFFECTS PARCEL E)
209-220-060-000 (AFFECTS PARCEL F)
209-220-070-000 (AFFECTS PARCEL C)



1 PROLOGIS L.P.

2 GBC GLOBAL INVESTMENTS

3 DELTA PROPERTIES

4 TWL INVESTORS LLC

NORTH

0 1000 2000 4000

GRAPHIC SCALE 1" = 2000'

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT "B"
URBAN RESERVE 6 PROPERTY OWNERS

TRACY CALIFORNIA

DATE	05/28/2013
JOB NO.	A09500
SCALE	1" =2000'
SHEET	2

Z:\2009\A09500\COST SHARING.dwg 4/15/2013 6:59:37 PM PDT

AGREEMENT BETWEEN THE CITY OF TRACY AND GBC GLOBAL INVESTMENTS, INC., REGARDING REIMBURSEMENT FOR ACQUISITION OF WATER SUPPLY AND CONVEYANCE CAPACITY

THIS AGREEMENT ("Agreement") is entered into on August 6, 2013 ("***Effective Date***") by and between the City of Tracy, a municipal corporation of the State of California ("***City***") and GBC Global Investments, Inc., a California corporation ("***GBC***"). City and GBC are sometimes referred to herein individually as the "***party***" and collectively as "***parties***."

RECITALS

This Agreement is predicated on the following facts, which are hereby incorporated into and made a part of this Agreement.

A. GBC owns approximately one hundred ninety four (194) acres of land in unincorporated San Joaquin County, adjacent to the City's municipal boundaries and within the City's sphere of influence, as more particularly described on attached Exhibit A ("***GBC Property***"). The GBC Property is within a larger planning area designated Urban Reserve 6 in the City's current General Plan, which consists of a total of approximately one thousand seven hundred and eighty (1,780) acres, as shown on attached Exhibit B ("***Urban Reserve 6***").

B. Prologis, L.P., a Delaware limited partnership ("***Prologis***") owns approximately one thousand two hundred and thirty eight (1,238) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***Prologis Property***"). TWL Investors, LLC, a California limited liability company ("***TWL***") owns approximately one hundred eight (108) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***TWL Property***"). R&B Delta, LLC, a California limited liability company ("***Delta***") owns approximately one hundred ten (110) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***Delta Property***"). Together, Prologis, TWL and Delta may be referred to herein as the "***Other Participating Property Owners***."

C. City is currently preparing a specific plan for Urban Reserve 6 pursuant to Section 65450, *et seq.*, of the California Government Code (the "***Cordes Ranch Specific Plan***"), and GBC and the Other Participating Property Owners are currently seeking various land use entitlements, permits and approvals from City to develop their respective properties in Urban Reserve 6 following City's adoption of the Cordes Ranch Specific Plan.

D. City is one of four (4) cities that participate in the South County Water Supply Project ("***SCWSP***") with the South San Joaquin Irrigation District ("***SSJID***") for the purchase, treatment and conveyance of potable water supplies. The other cities are the City of Lathrop ("***Lathrop***"), the City of Escalon, and the City of Manteca. Pursuant to separate agreements with SSJID, each participating city is allocated a specific volume of treated water supplies and a specific volume of conveyance capacity in the SCWSP system.

E. Under its agreement with SSJID, Lathrop is currently allocated treated water supplies and conveyance capacity in excess of its current and future projected needs.

F. City desires to purchase from Lathrop an entitlement to approximately one thousand one hundred and twenty (1,120) acre feet annually of water supplies and two (2) million gallons per day ("***MGD***") of treatment and conveyance capacity (together, the "***Lathrop Water Supply***"). City and Lathrop currently anticipate that the purchase price for the Lathrop Water Supply will

be Five Million Dollars ($5,000,000), and further anticipate executing an agreement for Lathrop's sale and City's purchase of the Lathrop Water Supply not later than August 15, 2013.

G. In addition to the Lathrop Water Supply, City desires to acquire from SSJID an entitlement of approximately Two Thousand (2,000) acre feet annually of water supplies ("***SSJID Water Supply***") to further supplement City's water portfolio. City currently anticipates that its acquisition costs for the SSJID Water Supply will be no greater than one million five hundred thousand dollars ($1,500,000), and further anticipates executing an agreement for SSJID to document City's acquisition of the SSJID Water Supply not later than December 31, 2014.

H. By entering into this Agreement, the parties hereby desire to memorialize the terms and conditions under which GBC shall reimburse City for GBC's share of all of City's costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply as set forth more fully herein.

I. It is anticipated that each of the Other Participating Property Owners will enter into substantially similar reimbursement agreements with City, which will provide for each of the Other Participating Property Owners to reimburse City for their respective fair share of costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply. As set forth herein, the parties acknowledge and agree that the validity and effectiveness of each reimbursement agreement will depend upon the validity and effectiveness of the other three agreements, such that all four agreements must be executed for any single agreement to have any validity or effect.

J. City, GBC and the Other Participating Property Owners have agreed that, for purposes of their respective reimbursement agreements with City, their respective fair shares of the costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply are as follows (each, "Fair Share"):

GBC:	(12.84%)
Prologis	(73.49%)
TWL	(6.95%)
Delta	(6.72%)

In consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

AGREEMENT

1. GBC's Obligations Relating to Lathrop Water Supply.

At the time that City, Lathrop and SSJID have executed the necessary agreements for Lathrop to sell to City, and City to purchase from Lathrop, the Lathrop Water Supply, then GBC shall reimburse City for GBC's Fair Share of the cost to City of acquiring the Lathrop Water Supply from Lathrop and SSJID as set forth below.

(a) GBC shall reimburse City for GBC's Fair Share of the actual purchase price to City of the Lathrop Water Supply, as set forth in the purchase and sale agreements between City and Lathrop (hereafter, the "***Lathrop Actual Purchase Price***"); provided, however, that if the Lathrop Actual Purchase Price exceeds five million dollars ($5,000,000), then neither City nor

GBC shall have any further obligations under Section 3 of this Agreement relating to the Lathrop Water Supply unless and until GBC and each of the Other Participating Property Owners agrees, in a written amendment to their respective reimbursement agreements, that they will each pay their Fair Share of any such additional amount. Notwithstanding the foregoing, the parties agree that GBC shall have the right, but not the obligation, to pay the Fair Share of any Other Participating Property Owner that declines to pay such additional amount, in which case, City's reimbursement agreement with each Other Participating Property Owner that declined to pay its Fair Share of such additional amount shall be null and void as to the Lathrop Water Supply, and City's reimbursement agreement with each Other Participating Property Owner that has agreed, in a written amendment to its reimbursement agreement, to pay such additional amount, shall remain valid and in effect.

(b) Not later than September 15, 2013, GBC shall pay to City its Fair Share of the amount of five hundred thousand dollars ($500,000) ("***Initial Lathrop Water Supply Payment***"), which Fair Share constitutes sixty four thousand two hundred and eight dollars and thirty two cents ($64,208.32).

(c) GBC shall reimburse City for GBC's Fair Share of the remainder of the Lathrop Actual Purchase Price in six (6) equal, quarterly installments on the following dates (collectively, the "***Installment Payments***") unless GBC elects to pre-pay the entire remaining amount due.

(i) December 31, 2013
(ii) March 31, 2014
(iii) June 30, 2014
(iv) September 30, 2014
(v) December 31, 2014
(vi) March 31, 2015

The amount of each Installment Payment, and the dollar amount of GBC's Fair Share of each Installment Payment, shall be determined by the Lathrop Actual Purchase Price. As of the date of the parties' execution of this Agreement, the parties anticipate that the Lathrop Actual Purchase Price will be five million dollars ($5,000,000). In the event that the Lathrop Actual Purchase Price is $5,000,000, then the amount of each Installment Payment shall be seven hundred fifty thousand dollars ($750,000), and the dollar amount of GBC's Fair Share of each Installment Payment shall be ninety six thousand three hundred and twelve dollars and forty nine cents ($96,312.49). In the event that the Lathrop Actual Purchase Price is more than, as provided herein, or less than $5,000,000, then the amount of each Installment Payment and the dollar amount of GBC's Fair Share of each Installment Payment shall be increased or decreased accordingly.

(d) City shall be entitled to interest on the outstanding balance of the Lathrop Actual Purchase Price, at the rate of Two and One Half Percent (2.5%) per year, payable as follows:

(i) On the same day that GBC pays its Fair Share of the Initial Lathrop Water Supply Payment, GBC shall pay its Fair Share of the interest due to City, calculated from the date that City acquires the Lathrop Water Supply, as set forth in the purchase and sale agreement between City and Lathrop, to the date that GBC pays its Fair Share of the Initial Lathrop Water Supply Payment.

(ii) On the same day that GBC pays its Fair Share of each Installment Payment, GBC shall pay its Fair Share of the interest due to City on the outstanding balance of the

Lathrop Actual Purchase Price, calculated from the date of GBC's preceding payment under this Agreement to the date of such Installment Payment.

(e) Not later than June 15, 2013, GBC shall provide to City an irrevocable, standby letter of credit (the "Letter of Credit"), in the amount of six hundred forty two thousand and eighty three dollars and twenty five cents ($642,083.25), which amount is equal to GBC's Fair Share of the anticipated purchase price of the Lathrop Water Supply, to secure and guarantee GBC's performance of its obligation to make payments under this Agreement. The Letter of Credit shall be maintained in effect (i) until GBC has fully reimbursed City for GBC's Fair Share of the entire Lathrop Actual Purchase Price or (ii) unless the parties' obligations under this Section 1 are terminated in accordance with Section 1(a) above, in which case GBC's obligations to maintain the Letter of Credit shall be terminated accordingly; or, if GBC is unable to obtain a Letter of Credit with a duration longer than twelve months, then GBC shall renew or replace the Letter of Credit at least ten (10) days prior to its expiration each year. If GBC fails to renew or replace the Letter of Credit as herein required, then City may draw down the entire amount of the Letter of Credit prior to its expiration for purposes of satisfying the remaining payment obligations relating to the Lathrop Water Supply of GBC hereunder. As GBC pays its Fair Share of the Initial Lathrop Water Supply Payment and each Installment Payment to City, as provided herein, the amount of the Letter of Credit may be reduced by the dollar amount of the payments actually made by GBC; provided, however, that at no time during the effective period of the Letter of Credit shall the amount of the Letter of Credit be less than the total amount of GBC's outstanding reimbursement obligation for the Lathrop Water Supply under this Agreement. The Letter of Credit shall be issued by a bank approved by City, which approval shall not be unreasonably withheld or delayed, and be in a form that is reasonably acceptable to the City Attorney. The parties hereby acknowledge and agree that the provision of the Letters of Credit by GBC and the Other Participating Property Owners pursuant to their respective reimbursement agreements is a material consideration for City's entering into this Agreement, that City would not have entered into this Agreement or reimbursement agreements with the Other Participating Property Owners without the assurance that GBC and the Other Participating Property Owners would provide the required Letters of Credit, and therefore the failure of GBC or any Other Participating Property Owner to provide and maintain the required Letter of Credit shall render City's obligations with respect to the Lathrop Water Supply null and void and of no further force and effect. Notwithstanding the foregoing, in the event that any Other Participating Property Owner does not provide and maintain its required Letter of Credit in accordance with this Section 1(e), then GBC shall have the right, but not the obligation, to replace its Letter of Credit with an amended Letter of credit describing the additional secured obligation of the Other Participating Property Owner and increasing the amount of its Letter of Credit to cover the outstanding amount of said Other Participating Property Owner, in which case the parties' obligations with respect to the Lathrop Water Supply shall remain in full force and effect.

(f) The parties hereby acknowledge and agree that, in addition to GBC's obligation to reimburse City for GBC's Fair Share of the full Lathrop Actual Purchase Price, GBC shall reimburse City for GBC's Fair Share of all of City's actual costs incurred in acquiring the Lathrop Water Supply, including costs incurred for City staff and consultants' time, pursuant to separate cost recovery agreements between City and GBC.

2. GBC's Obligations Relating to SSJID Water Supply.

(a) Not later than July 1, 2013, GBC shall pay to City its Fair Share of the amount of one hundred fifty thousand dollars ($150,000) ("***Initial SSJID Water Supply Payment***"), which Fair

Share constitutes nineteen thousand two hundred and sixty two dollars and fifty cents ($19,262.50).

(b) Not later than thirty (30) days following GBC's receipt of notice from City that City has executed an agreement with SSJID for City's acquisition of the SSJID Water Supply, GBC shall pay its Fair Share of the actual acquisition price ("***SSJID Actual Purchase Price***") to be paid by City for the SSJID Water Supply pursuant to such agreement between City and SSJID, provided that the sum of the SSJID Actual Purchase Price and the Initial SSJID Water Supply Payment does not exceed one million five hundred thousand dollars ($1.5 million). If City cannot acquire the SSJID Water Supply for $1.5 million or less (including the Initial SSJID Water Supply Payment), then City shall have no obligation under this Agreement to obtain the SSJID Water Supply unless and until GBC and all of the Other Participating Owners agree, in a written amendment to their respective reimbursement agreements, that they are each willing to pay their respective Fair Share of any such additional amount. Absent such written agreements, if the sum of the SSJID Actual Purchase Price and the Initial SSJID Water Supply Payment to acquire the SSJID Water Supply would exceed $1.5 million, the parties shall have no further obligations hereunder with respect to the SSJID Water Supply. Notwithstanding the foregoing, the parties agree that GBC shall have the right, but not the obligation, to cover the Fair Share of any Other Participating Owner that elects not to proceed in the event of any additional costs, and in which case, City shall proceed with the acquisition of the SSJID Water Supply as contemplated herein.

(c) Consistent with Section 1 above, the parties hereby acknowledge and agree that, in addition to GBC's obligation to reimburse City for its Fair Share of the full SSJID Actual Purchase Price, GBC shall reimburse City for its Fair Share of all of City's actual costs incurred in acquiring the SSJID Water Supply, including costs incurred for City Staff and consultants' time, pursuant to separate cost necessary agreements between City and GBC.

3. City Obligations.

(a) City shall use good faith and diligent efforts to complete its acquisition of the Lathrop Water Supply on or before August 15, 2013, and to complete its acquisition of the SSJID Water Supply on or before December 31, 2014 subject to and consistent with its legal duties and obligations as a municipal corporation in the State of California, to provide City with sufficient potable water supplies to provide potable water service to Urban Reserve 6 consistent with the service obligations contemplated in the Water Supply Assessment for the Cordes Ranch Specific Plan dated January 2013 ("***WSA***") and the City of Tracy Cordes Ranch Specific Plan Project Draft Environmental Impact Report dated April 5, 2013 (the "***EIR***").

(b) Nothing in this Agreement shall be interpreted as committing City to a definite course of action with respect to land use planning or any development proposals for or relating to Urban Reserve 6 or its consideration of the proposed Cordes Ranch Specific Plan and any related City permits and approvals. City hereby expressly retains its full discretion in considering land use plans and proposals for Urban Reserve 6, including, without limitation, the ability to approve or decline to approve the proposed Cordes Ranch Specific Plan and any related City permits and approvals, and this Agreement is in no way binding on City's discretion in this regard.

(c) The parties further acknowledge and agree that by this Agreement, City shall have no obligation to reimburse GBC for the funding provided for herein. Notwithstanding the foregoing, City shall use good faith and diligent efforts to facilitate the reimbursement to GBC

from any other property owners that benefit from City's acquisition of the Lathrop Water Supply or the SSJID Water Supply, subject to and consistent with its legal duties and obligations as a municipal corporation in the State of California, as contemplated herein.

(d) In the event the City Council approves the Cordes Ranch Specific Plan and any related City permits and approvals and completes its acquisitions of the Lathrop Water Supply and/or the SSJID Water Supply as contemplated by this Agreement, and provided that the water demands generated by development in Urban Reserve 6 do not exceed the water demand projections for Urban Reserve 6 set forth in the WSA and the EIR, the parties further acknowledge and agree that GBC's reimbursements made under this Agreement (including any additional payments that may be made on behalf of any Other Participating Property Owner pursuant to Sections 1(a), 1(e) and/or 2(b) above) shall be reflected in any Finance Implementation Plan for Urban Reserve 6 and the Cordes Ranch Specific Plan that is or becomes applicable to GBC.

4. Condition Precedent to Effectiveness of City's and GBC's Obligations.

City's and GBC's obligations set forth in Section 1, Section 2 and Section 3 above, shall not be effective unless and until City has received from each of the Other Participating Property Owners, a reimbursement agreement that is substantially similar to this Agreement, as determined by City, and that is signed by an authorized representative of each of the Other Participating Property Owners, requiring each of the Other Participating Property Owners to reimburse City for their respective Fair Shares of all of City's costs to acquire the Lathrop Water Supply and the SSJID Water Supply, including costs for City staff time and consultants' time. In the event of a conflict between the language of this Section 4 and any other language or provision of this Agreement, this Section 4 shall prevail.

5. Attorneys' Fees.

In the event any legal action is commenced by a party to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs and expenses incurred related thereto.

6. Modifications.

This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

7. Waivers.

Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

8. Jurisdiction and Venue.

The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

9. Entire Agreement.

This Agreement, including all attached Exhibits, comprises the entire integrated understanding between the parties. This Agreement supersedes all prior negotiations, representations or agreements.

10. Notices.

All notices to be given hereunder shall be in writing and may be personally delivered or mailed to the respective party at the addresses set forth below (either party may modify its address for notice by providing written notice to the other party). Any notice shall be deemed to have been given and received on the first to occur of: (a) actual receipt at the address set forth below; or (b) three (3) working days following the deposit in the United States Mail of registered or certified mail sent to the address set forth below.

City:

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
209.831.6000 (tel)
209.831.6120 (fax)
Attn: City Manager

With a copy to:

City Attorney's Office of City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
209.831.6130 (tel)
209.831.6137 (fax)
Attn: City Attorney

GBC:

c/o CRS Real Estate Services
1450 Maria Lane, Suite 200
Walnut Creek, CA 94596
925.933.0200 (tel)
925.256.3910 (fax)
Attn: Rick Woodward

With a copy to:

Miller Starr Regalia
1331 North California Blvd., Fifth Floor
Walnut Creek, CA 94596
925.935.9400 (tel)
925.933.4126 (fax)
Attn: Nadia Costa

11. Term of Agreement.

The term of this Agreement shall commence on the Effective Date and shall remain effective until GBC has satisfied its reimbursement obligations as set forth herein, or unless and until the Agreement is terminated pursuant to its terms, including but not limited to Section 1(e) above.

12. Indemnification.

GBC shall indemnify, defend and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs and expenses of any kind (including court costs and attorney's fees) resulting from or arising out of this Agreement except in the event and to the extent of City's gross negligence or willful misconduct.

13. Defense of Legal Challenge.

In the event of any administrative, legal, equitable or other action or proceeding instituted by any person, entity or organization, to challenge this Agreement (collectively, "***Challenge***"), GBC shall defend and indemnify City against any and all fees and costs arising out of the defense of such Challenge, including the fees and costs of City's own in-house or special counsel retained to protect the City's interests. In the event of any such Challenge, each party shall be entitled to legal counsel of its choice, at GBC's expense, and the parties and their respective counsel shall cooperate with each other in the defense of any such Challenge, including in any settlement negotiations. If a court in any such Challenge in a final judgment awards any form or amount of money damages to such third party as a result thereof, or any attorneys' fees or costs to such third party, GBC shall bear full and complete responsibility to comply with the requirements of such award, and hereby agrees to pay all damages, fees and costs on behalf of City.

14. No Money Damages.

The parties hereby acknowledge that City would not have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its negotiation, preparation, implementation or application. The parties further acknowledge that it is a material part of GBC's consideration to City that City shall not be at any risk whatsoever to liability for money damages relating to or arising from this Agreement, and except for non-damages remedies, GBC, on the one hand, and City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or

ordinance, which seeks to impose any money damages, whatsoever, upon the parties because the parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement

15. Assignment.

GBC shall have the right to sell, assign, or transfer its rights under this Agreement, in whole or in part, to any individual or entity ("***Assignee***") that secures an interest in the GBC Property, subject to City's consent, which shall not be unreasonably withheld or delayed, and provided that the Assignee expressly assumes said obligations hereunder. At least thirty (30) days prior to any proposed assignment, GBC shall notify City of its intent to assign this Agreement (in whole or in part) and shall provide to City a copy of the proposed Assignment and Assumption Agreement that would reflect the Assignee's express assumption of any and all obligations hereunder.

16. Signatures.

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Prologis and City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY

City of Tracy, a municipal corporation

By: _____

Its: _____

Date: _____

Attest:

_____

By: _____

Its: CITY CLERK

Date: _____

GBC

GBC Global Investments, Inc., a California corporation

By: _____
Gregg Christensen

Its: Manager

Date: 7-24-13

Approved as to form:

By: _____

Its: CITY ATTORNEY

Date: _____

Exhibit A

Legal Description: GBC Global Property

Real property in the Unincorporated Area of the County of San Joaquin, State of California, described as follows:

PARCEL ONE: (Portion of 209-080-36)

A TRACT OF LAND SITUATED IN THE SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE NORTH LINE OF SAID QUARTER SECTION 30 FEET WEST OF THE NORTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH ALONG THE WEST LINE OF COUNTY ROAD, 780 FEET, MORE OR LESS TO THE NORTHEAST CORNER OF THE 5 ACRE TRACT DESCRIBED IN DEED TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED IN BOOK OF OFFICIAL RECORD, BOOK 311, PAGE 101, SAN JOAQUIN COUNTY RECORDS; THENCE ALONG THE BOUNDARY LINES OF SAID 5 ACRE TRACT AS FOLLOWS:
SOUTH 89° 54 1/2' WEST 209.4 FEET; SOUTH 0° 05 1/2' EAST 78.5 FEET; THENCE WESTERLY 2400.6 FEET, MORE OR LESS TO A POINT IN THE WEST LINE OF SAID QUARTER SECTION WHICH IS 1781.5 FEET NORTH OF THE SOUTHWEST CORNER OF SAID QUARTER SECTION; THENCE NORTH ALONG THE WEST LINE OF SAID QUARTER SECTION 858.5 FEET, MORE OR LESS TO THE NORTHWEST CORNER OF SAID QUARTER SECTION; THENCE EAST ALONG THE NORTH LINE OF SAID QUARTER SECTION 2610 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THE ABOVE DESCRIBED PARCEL ONE THAT 27.759 ACRE PARCEL AS CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED FEBRUARY 24, 1952 IN BOOK OF OFFICIAL RECORDS, BOOK 1396, PAGE 547, SAN JOAQUIN COUNTY RECORDS.
ALSO EXCEPT THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED JANUARY 6, 1967 IN BOOK OF OFFICIAL RECORDS, BOOK 3096, PAGE 563, SAN JOAQUIN COUNTY RECORDS.

ALSO EXCEPT THEREFROM THAT PORTION CONVEYED TO MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT BY DEED RECORDED JULY 12, 2005, RECORD'S SERIAL NO. 2005-167511, OFFICIAL RECORDS OF SAN JOAQUIN.

PARCEL TWO: (Portion of 209-080-36)

A TRACT OF LAND SITUATED IN THE SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF SAID QUARTER SECTION; THENCE NORTH ALONG THE WEST LINE OF SAID QUARTER SECTION 855.0 FEET; THENCE EASTERLY 2400.6 FEET, MORE OR LESS TO A POINT IN THE WEST LINE OF THE 5 ACRE TRACT AS DESCRIBED IN DEED TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED IN BOOK OF OFFICIAL RECORDS, BOOK 311, PAGE 101, SAN JOAQUIN COUNTY RECORDS WHICH BEARS NORTH 0° 05 1/2 WEST 35 FEET FROM THE SOUTHWEST CORNER OF SAID 5 ACRE TRACT; THENCE SOUTH 0° 05 1/2 EAST 35 FEET TO THE SOUTHWEST CORNER OF SAID 5 ACRE TRACT; THENCE NORTH 89° 54

1/2 EAST 209.4 FEET TO THE SOUTHEAST CORNER OF SAID 5 ACRE TRACT; THENCE SOUTH ALONG THE WEST SIDE OF COUNTY ROAD 820 FEET TO THE SOUTH LINE OF SAID SECTION 21; THENCE WEST ALONG THE SOUTH LINE OF SAID SECTION 21, 2610 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

EXCEPTION THEREFROM THAT PORTION CONVEYED TO THE UNITED STATES OF AMERICA BY DEED RECORDED JULY 18, 1947, IN BOOK 1061 OF OFFICIAL RECORDS, PAGE 209, SAN JOAQUIN COUNTY RECORDS.

PARCEL THREE: (209-080-08)

A PORTION OF THAT CERTAIN 53.366 ACRE PARCEL OF LAND DESCRIBED IN DEED TO THE STATE OF CALIFORNIA DATED NOVEMBER 28, 1951, RECORDED IN BOOK OF OFFICIAL RECORDS, BOOK 1391, PAGE 300, SAN JOAQUIN COUNTY RECORDS, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID PARCEL OF LAND WHICH LINE IS THE EAST LINE OF THE WEST 1/2 OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN. SAID POINT LYING SOUTH 0° 29. 37. WEST 166.56 FEET FROM THE NORTHEASTERLY CORNER OF SAID PARCEL OF LAND; THENCE SOUTH 0° 29' 37" WEST 1860.89 FEET TO THE NORTHEASTERLY LINE OF THAT CERTAIN 55.90 ACRE PARCEL OF LAND DESCRIBED IN FINAL JUDGMENT OF CONDEMNATION TO THE UNITED STATES OF AMERICA RECORDED JANUARY 21, 1949 IN BOOK 1180 OF OFFICIAL RECORDS PAGE 169, SAN JOAQUIN COUNTY RECORDS; THENCE ALONG SAID NORTHEASTERLY LINE,
NORTH 60° 18' 30" WEST 432.80 FEET; NORTH 13° 58' 30" EAST 1095.00 FEET; NORTH 58° 31' 30" WEST 585.00 FEET; SOUTH 52° 53' 30" WEST 414.10 FEET; SOUTH 85° 26' 30" WEST 487.20 FEET SOUTH 80° 40' 30" WEST 765.60 FEET; NORTH 33° 37' 30" WEST 159.70 FEET; NORTH 3° 42' 30' WEST 323.70 FEET AND CONTINUING ALONG SAID NORTHEASTERLY LINE, NORTH 36° 29' 30" WEST 87.32 FEET TO A POINT, LAST SAID POINT LYING SOUTH 5° 09' 30" WEST 459.26 FEET FROM ENGINEER'S STATION 2284.30 E. C. OF THE DEPARTMENT OF PUBLIC WORKS SURVEY BETWEEN ALTAMONT PASS AND TRACY, ROAD X-SJ-5-A; THENCE LEAVING LAST SAID SOUTHEASTERLY LINE, NORTH 5° 09' 30" EAST 339.26 FEET TO A POINT IN THE SOUTHERLY RIGHT OF WAY LINE OF THE STATE HIGHWAY, ROAD X-SJ-5-A DEPARTMENT OF PUBLIC WORKS SURVEY BETWEEN ALTAMONT PASS AND TRACY; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 84° 50' 30" EAST 865.70 FEET; SOUTH 87° 20' 01. EAST 850.82 FEET SOUTH 84° 50' 30. EAST 619.09 FEET TO THE POINT OF BEGINNING.
(BEARINGS AND DISTANCES ARE BASED ON THE CALIFORNIA COORDINATE SYSTEM ZONE 3)

EXCEPT THEREFROM ALL OIL, GAS AND/OR MINERALS IN AND UNDER SAID LAND AS RESERVED IN DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, A NATIONAL BANKING ASSOCIATING RECORDED MARCH 30, 1936 IN BOOK OF OFFICIAL RECORDS, BOOK 526, PAGE 339, SAN JOAQUIN COUNTY RECORDS; AND BY DEED FROM G.O. HEINE RECORDED JULY 10, 1941 IN BOOK OF OFFICIAL RECORDS, BOOK 737, PAGE 254, SAN JOAQUIN COUNTY RECORDS.

ALSO EXCEPT THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED JANUARY 6, 1967 IN BOOK OF OFFICIAL RECORDS, BOOK 3096, PAGE 563, SAN JOAQUIN COUNTY RECORDS.

PARCEL FOUR: (Portion of 209-080-36)

A TRACT OF LAND IN THE SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF SAID QUARTER SECTION 855.0 FEET NORTH OFTHE SOUTHWEST CORNER OF SAID QUARTER SECTION; THENCE NORTH ALONG THE WEST

LINE OF SAID QUARTER SECTION 926.5 FEET; THENCE EASTERLY 2400.6 FEET, MORE OR LESS TO A POINT IN THE WEST LINE OF THE 5 ACRE TRACT DESCRIBED IN DEED TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED IN BOOK 311 OF OFFICIAL RECORDS PAGE 101, SAN JOAQUIN COUNTY RECORDS; SOUTH 0° 05 1/2' EAST 78.5 FEET FROM THE NORTHWEST CORNER OF SAID 5 ACRE TRACT 926.5 FEET; THENCE WESTERLY 2400.6 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM THAT PORTION CONVEYED TO MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT BY DEED RECORDED JULY 12, 2005, RECORD'S SERIAL NO. 2005-167511, OFFICIAL RECORDS OF SAN JOAQUIN.

PARCEL FIVE: (209-080-24)

BEGINNING AT A POINT IN THE NORTHERLY BOUNDARY OF PARCEL ONE IN THE DECREE ON THE DECLARATION OF TAKING, U.S. DISTRICT COURT, CASE 5833 AT THE SOUTHEASTERLY TERMINUS OF A COURSE DESCRIBED N SAID DECREE AS BEARING SOUTH 33° 59' EAST 159.7 FEET AND THE BEGINNING OF A COURSE BEARING NORTH 80° 19' EAST 765.6 FEET; THENCE FROM SAID POINT OF BEGINNING ALONG SAID NORTHERLY BOUNDARY AS FOLLOWS: NORTH 80° 19' EAST 765.5 FEET; NORTH 85° 05' EAST 487.2 FEET AND NORTH 52° 32' EAST 234.7 FEET; THENCE LEAVING SAID NORTHERLY BOUNDARY AND ENTERING SAID PARCEL ONE, SOUTH 64° 11' EAST 403.3 FEET; THENCE SOUTH 09° 28' EAST 161.2 FEET; THENCE SOUTH 12° 36' WEST 837.0 FEET; THENCE NORTH 39° 05' WEST 200.0 FEET; THENCE NORTH 05° 50' WEST 484.7 FEET; THENCE NORTH 50° 52' WEST 159.7 FEET; THENCE NORTH 56° 27' WEST 293.4 FEET; THENCE NORTH 75° 39' WEST 180.4 FEET; THENCE SOUTH 81° 04' WEST 736.5 FEET; THENCE NORTH 87° 47' WEST 187.5 FEET TO THE POINT OF BEGINNING. EXCEPT THEREFROM ALL OIL, GAS AND/OR MINERALS IN AND UNDER SAID LAND AS RESERVED IN DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, A NATIONAL BANKING ASSOCIATING RECORDED MARCH 30, 1936 IN BOOK OF OFFICIAL RECORDS, BOOK 526, PAGE 389, SAN JOAQUIN COUNTY RECORDS; AND BY DEED FROM G.O. HEINE RECORDED JULY 10, 1941 IN BOOK OF OFFICIAL RECORDS, BOOK 737, PAGE 254, SAN JOAQUTt4 COUNTY RECORDS.

PARCEL SIX: (209-090-36)

THE NORTHEAST 1/4 OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN.

EXCEPT THEREFROM THOSE PORTIONS INCLUDED IN THE 43.972 ACRE PARCEL OF LAND CONVEYED TO THE UNITED STATES OF AMERICA ON JULY 18,1947, RECORDED IN BOOK OF OFFICIAL RECORDS, BOOK 1061 PAGE 209, SAN JOAQUIN COUNTY RECORDS AND BEING PART OF THE DELTA MENDOTA CANAL.

ALSO EXCEPT THEREFROM THAT 78.05 ACRE PARCEL OF LAND CONVEYED TO ELI F. SANTOS, ET AL BY DEED RECORDED SEPTEMBER 29, 1950 IN BOOK OF OFFICIAL RECORDS, BOOK 1297, PAGE 245, SAN JOAQUIN COUNTY RECORD.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND CONVEYED TO THE COUNTY OF SAN JOAQUIN ON NOVEMBER 24, 1992 AS INSTRUMENT 140. 92136365, SAN JOAQUIN COUNTY RECORDS.

PARCEL SEVEN: (Portion of 209-080-36)

BEING A PORTION OF THE SOUTHEAST ONE-QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH,

RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, ALSO BEING A PORTION OF THAT CERTAIN PARCEL OF LAND GRANTED TO MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT, BY DEED RECORDED JULY 12, 2005 IN DOCUMENT NO. 2005-167511 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERN TERMINUS OF THAT CERTAIN COURSE DESIGNATED AS "SOUTH 00°01.42" EAST 1137.00 FEET" AS SHOWN ON THE RECORD OF SURVEY RECORDED OCTOBER 21, 1991, IN BOOK 32 OF SURVEYS, AT PAGE 10, IN SAID OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE EASTERN LINE OF SAID RECORD OF SURVEY, NORTH 00°37'37" EAST (THE BEARING OF SAID EASTERN LINE BEING TAKEN AS NORTH 00°37.37" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 250.335 METERS TO THE SOUTHEASTERN CORNER OF SAID PARCEL OF LAND (2005-167511), SAID POINT BEING THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE SOUTHWESTERN LINE OF SAID PARCEL OF LAND (2005-167511), THE FOLLOWING EIGHT (8) COURSES:

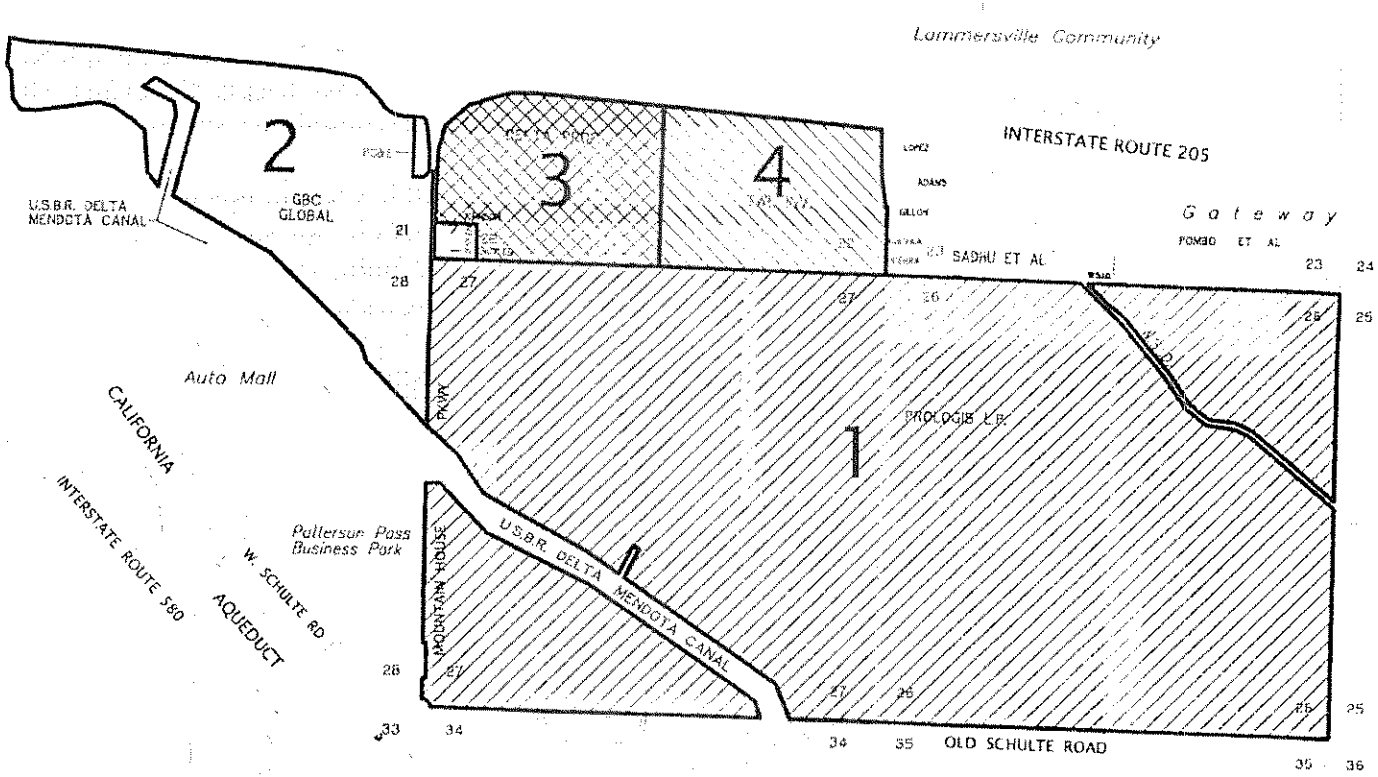
1) NORTH 87°19.29" WEST 34.473 METERS,
2) ALONG THE ARC OF A NON-TANGENT 93.363 METER RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 01°48'05" WEST, THROUGH A CENTRAL ANGLE OF 48°41'38", AN ARC DISTANCE OF 79.346 METERS,
3) ALONG THE ARC OF A COMPOUND 52.789 METER RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 46°53'33" EAST, THROUGH A CENTRAL ANGLE OF 08°05'12", AN ARC DISTANCE OF 7.451 METERS,
4) NORTH 35°24'37" WEST 25.073 METERS,
5) NORTH 39°03'51" WEST 3.710 METERS,
6) NORTH 42°43'05" WEST 84.000 METERS,
7) ALONG THE ARC OF A TANGENT 76.900 METER RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 37°13'29", AN ARC DISTANCE OF 49.961 METERS, AND
8) NORTH 79°56.34" WEST 137.255 METERS TO THE WESTERN CORNER OF SAID PARCEL OF LAND (2005-167511), SAID POINT ALSO BEING A POINT ON THE SOUTHERN RIGHT-OF-WAY LINE OF CALIFORNIA STATE HIGHWAY 205, AS SAID SOUTHERN LINE IS SHOWN AND SO DESIGNATED ON PAGES 4 AND 6 OF THAT CERTAIN STATE HIGHWAY MAP ENTITLED, "ROUTE 205 BETWEEN 580 & ROUTE 5, DISTRICT 10, SAN JOAQUIN COUNTY", AS PREPARED BY THE STATE OF CALIFORNIA TRANSPORTATION AGENCY, DEPARTMENT OF PUBLIC WORKS, DIVISION OF HIGHWAYS, DATED JUNE 12, 1972;

THENCE, FROM SAID WESTERN CORNER, ALONG THE NORTHERN LINE OF SAID PARCEL OF LAND (2005-167511), SOUTH 84°53'13" EAST 42.114 METERS TO THE WESTERN CORNER OF PARCEL 15440-1, AS SAID PARCEL 15440-1 IS DESCRIBED IN THAT CERTAIN DEED, RECORDED JANUARY 16, 2009 IN DOCUMENT NO. 2009-0077901 OF OFFICIAL RECORDS IN SAID OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN COUNTY;

THENCE, FROM SAID WESTERN CORNER, ALONG THE SOUTHWESTERN LINE OF SAID PARCEL 15440-1 (2009-0077901), THE FOLLOWING EIGHT (8) COURSES:
1) SOUTH 79°56'46" EAST 94.746 METERS,
2) ALONG THE ARC OF A TANGENT 76.900 METER RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 37°13.29", AN ARC DISTANCE OF 49.961 METERS,
3) SOUTH 42°43'17" EAST 84.000 METERS,
4) SOUTH 39°04'03" EAST 3.710 METERS,

5) SOUTH 35°24'49" EAST 25.073 METERS,
6) ALONG THE ARC OF A NON-TANGENT 52.789 METER RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 54°58'33" EAST, THROUGH A CENTRAL ANGLE OF 08°05'12", AN ARC DISTANCE OF 7.451 METERS,
7) ALONG THE ARC OF A COMPOUND 93.363 METER RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS NORTH 46°53'21" EAST, THROUGH A CENTRAL ANGLE OF 48°41.38", AN ARC DISTANCE OF 79.346 METERS, AND
8) SOUTH 87°19'41" EAST 34.414 METERS TO A POINT ON THE EASTERN LINE OF SAID PARCEL OF LAND (2005-167511); THENCE, ALONG SAID EASTERN LINE, SOUTH 00°37'37" WEST 3.693 METERS TO SAID POINT OF BEGINNING.

APN: 209-090-360-000 (Affects Parcel 6) and 209-080-360-000 (Affects Parcels 1, 2, 4 and 7) and 209-080-240-000 (Affects Parcel 5) and 209-080-080-000 (Affects Parcel 3)



1 PROLOGIS L.P.

2 GBC GLOBAL INVESTMENTS

3 DELTA PROPERTIES

4 TWL INVESTORS LLC

NORTH

0 1000 2000 4000

GRAPHIC SCALE 1" = 2000'

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT "B"
URBAN RESERVE 6 PROPERTY OWNERS

TRACY CALIFORNIA

DATE	05/28/2013
JOB NO.	A09500
SCALE	1" =2000'
SHEET	2

Z:\2009\A09500\COST SHARING.dwg 4/15/2013 6:59:37 PM PDT

AGREEMENT BETWEEN THE CITY OF TRACY AND R&B DELTA, LLC, REGARDING REIMBURSEMENT FOR ACQUISITION OF WATER SUPPLY AND CONVEYANCE CAPACITY

THIS AGREEMENT ("Agreement") is entered into on August 6, 2013 ("***Effective Date***") by and between the City of Tracy, a municipal corporation of the State of California ("***City***") and R&B Delta, LLC, a California limited liability company ("***Delta***"). City and Delta are sometimes referred to herein individually as the "***party***" and collectively as "***parties***."

RECITALS

This Agreement is predicated on the following facts, which are hereby incorporated into and made a part of this Agreement.

A. Delta owns approximately one hundred ten (110) acres of land in unincorporated San Joaquin County, adjacent to the City's municipal boundaries and within the City's sphere of influence, as more particularly described and shown on attached Exhibit A ("***Delta Property***"). The Delta Property is within a larger planning area designated Urban Reserve 6 in the City's current General Plan, which consists of a total of approximately one thousand seven hundred and eighty (1,780) acres, as shown on attached Exhibit B ("***Urban Reserve 6***").

B. Prologis, L.P., a Delaware limited partnership ("***Prologis***") owns approximately one thousand two hundred and thirty eight (1,238) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***Prologis Property***"). GBC Global Investments, Inc., a California corporation ("***GBC***") owns approximately one hundred ninety four (194) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***GBC Property***"). TWL Investors, LLC, a California limited liability company ("***TWL***") owns approximately one hundred eight (108) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***TWL Property***"). Together, Prologis, GBC and TWL may be referred to herein as the "***Other Participating Property Owners***."

C. City is currently preparing a specific plan for Urban Reserve 6 pursuant to Section 65450, *et seq.*, of the California Government Code (the "***Cordes Ranch Specific Plan***"), and Delta and the Other Participating Property Owners are currently seeking various land use entitlements, permits and approvals from City to develop their respective properties in Urban Reserve 6 following City's adoption of the Cordes Ranch Specific Plan.

D. City is one of four (4) cities that participate in the South County Water Supply Project ("***SCWSP***") with the South San Joaquin Irrigation District ("***SSJID***") for the purchase, treatment and conveyance of potable water supplies. The other cities are the City of Lathrop ("***Lathrop***"), the City of Escalon, and the City of Manteca. Pursuant to separate agreements with SSJID, each participating city is allocated a specific volume of treated water supplies and a specific volume of conveyance capacity in the SCWSP system.

E. Under its agreement with SSJID, Lathrop is currently allocated treated water supplies and conveyance capacity in excess of its current and future projected needs.

F. City desires to purchase from Lathrop an entitlement to approximately one thousand one hundred and twenty (1,120) acre feet annually of water supplies and two (2) million gallons per day ("***MGD***") of treatment and conveyance capacity (together, the "***Lathrop Water Supply***"). City and Lathrop currently anticipate that the purchase price for the Lathrop Water Supply will be five million dollars ($5,000,000), and further anticipate executing an agreement for Lathrop's sale and City's purchase of the Lathrop Water Supply not later than August 15, 2013.

G. In addition to the Lathrop Water Supply, City desires to acquire from SSJID an entitlement to approximately Two Thousand (2,000) acre feet annually of water supplies (the "***SSJID Water Supply***") to further supplement City's water portfolio. City currently anticipates that its acquisition costs for the SSJID Water Supply will be no greater than one million five hundred thousand dollars ($1,500,000), and further anticipates executing an agreement for SSJID to document City's acquisition of the SSJID Water Supply not later than December 31, 2014.

H. By entering into this Agreement, the parties hereby desire to memorialize the terms and conditions under which Delta shall reimburse City for Delta's share of all of City's costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply as set forth more fully herein.

I. It is anticipated that each of the Other Participating Property Owners will enter into substantially similar reimbursement agreements with City, which will provide for each of the Other Participating Property Owners to reimburse City for their respective fair share of costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply. As set forth herein, the parties acknowledge and agree that the validity and effectiveness of each reimbursement agreement will depend upon the validity and effectiveness of the other three agreements, such that all four agreements must be executed for any single agreement to have any validity or effect.

J. City, Delta and the Other Participating Property Owners have agreed that, for purposes of their respective reimbursement agreements with City, their respective fair shares of the costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply are as follows (each, "Fair Share"):

Delta:	6.72%
Prologis:	73.49%
GBC:	12.84%
TWL:	6.95%

In consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

AGREEMENT

1. Delta's Obligations Relating to Lathrop Water Supply.

At the time that City, Lathrop and SSJID have executed the necessary agreements for Lathrop to sell to City, and City to purchase from Lathrop, the Lathrop Water Supply, then Delta shall

reimburse City for its Fair Share of the cost to City of acquiring the Lathrop Water Supply from Lathrop and SSJID as set forth below.

(a) Delta shall reimburse City for Delta's Fair Share of the actual purchase price to City of the Lathrop Water Supply, as set forth in the purchase and sale agreements between City and Lathrop (hereafter, the "***Lathrop Actual Purchase Price***"); provided, however, that if the Lathrop Actual Purchase Price exceeds five million dollars ($5,000,000), then City shall have no obligations under Section 3 of this Agreement with respect to the Lathrop Water Supply unless and until Delta and each of the Other Participating Property Owners agrees, in a written amendment to their respective reimbursement agreements, that they will each pay their Fair Share of any such additional amount. Notwithstanding the foregoing, the parties agree that Delta shall have the right, but not the obligation, to pay the Fair Share of any Other Participating Property Owner that declines to pay such additional amount, in which case, City's reimbursement agreement with each Other Participating Property Owner that declined to pay its Fair Share of such additional amount shall be null and void as to the Lathrop Water Supply, and City's reimbursement agreement with each Other Participating Property Owner that has agreed, in a written amendment to its reimbursement agreement, to pay such additional amount, shall remain valid and in effect.

(b) Not later than September 15, 2013, Delta shall pay to City its Fair Share of the amount of five hundred thousand dollars ($500,000) ("***Initial Lathrop Water Supply Payment***"), which Fair Share constitutes thirty three thousand five hundred and eighty four dollars and eighty one cents ($33,584.81).

(c) Delta shall reimburse City for Delta's Fair Share of the remainder of the Lathrop Actual Purchase Price in six (6) equal, quarterly installments on the following dates (collectively, the "***Installment Payments***") unless Delta elects to pre-pay the entire remaining amount due.

(i) December 31, 2013
(ii) March 31, 2014
(iii) June 30, 2014
(iv) September 30, 2014
(v) December 31, 2014
(vi) March 31, 2015

The amount of each Installment Payment, and the dollar amount of Delta's Fair Share of each Installment Payment, shall be determined by the Lathrop Actual Purchase Price of the Lathrop Water Supply. As of the date of the parties' execution of this Agreement, the parties anticipate that the Lathrop Actual Purchase Price will be five million dollars ($5,000,000). In the event that the Lathrop Actual Purchase Price is $5,000,000, then the amount of each Installment Payment shall be seven hundred fifty thousand dollars ($750,000), and the dollar amount of Delta's Fair Share of each Installment Payment shall be fifty thousand three hundred and seventy seven dollars and twenty one cents ($50,377.21). In the event that the Lathrop Actual Purchase Price is more than, as provided herein, or less than $5,000,000, then the amount of each Installment Payment and the dollar amount of Delta's Fair Share of each Installment Payment shall be increased or decreased accordingly.

(d) City shall be entitled to interest on the outstanding balance of the Lathrop Actual Purchase Price, at the rate of Two and One Half Percent (2.5%) per year, payable as follows:

(i) On the same day that Delta pays its Fair Share of the Initial Lathrop Water Supply Payment, Delta shall pay its Fair Share of the interest due to City, calculated from the date that City acquires the Lathrop Water Supply, as set forth in the purchase and sale agreement between City and Lathrop, to the date that Delta pays its Fair Share of the Initial Lathrop Water Supply Payment.

(ii) On the same day that Delta pays its Fair Share of each Installment Payment, Delta shall pay its Fair Share of the interest due to City on the outstanding balance of the Lathrop Actual Purchase Price, calculated from the date of Delta's preceding payment under this Agreement to the date of such Installment Payment.

(e) Not later than the Effective Date of this Agreement, Delta shall provide to City an irrevocable, standby letter of credit (the "Letter of Credit"), in the amount of three hundred thirty five thousand eight hundred and forty eight dollars and eight cents ($335,848.08), which amount is equal to Delta's Fair Share of the anticipated purchase price of the Lathrop Water Supply, to secure and guarantee Delta's performance of its obligation to make payments under this Agreement. The Letter of Credit shall be maintained in effect (i) until Delta has fully reimbursed City for Delta's Fair Share of the entire Lathrop Actual Purchase Price or (ii) unless the parties' obligations under this Section 1 are terminated in accordance with Section 1(a) above, in which case Delta's obligations to maintain the Letter of Credit shall be terminated accordingly; or, if Delta is unable to obtain a Letter of Credit with a duration longer than twelve months, then Delta shall renew or replace the Letter of Credit at least ten (10) days prior to its expiration each year. If Delta fails to renew or replace the Letter of Credit as herein required, then City may draw down the entire amount of the Letter of Credit prior to its expiration for purposes of satisfying the remaining payment obligations relating to the Lathrop Water Supply of Delta hereunder. As Delta pays its Fair Share of the Initial Lathrop Water Supply Payment and each Installment Payment to City, as provided herein, the amount of the Letter of Credit may be reduced by the dollar amount of the payments actually made by Delta; provided, however, that at no time during the effective period of the Letter of Credit shall the amount of the Letter of Credit be less than the total amount of Delta's outstanding reimbursement obligation for the Lathrop Water Supply under this Agreement. The Letter of Credit shall be issued by a bank approved by City, which approval shall not be unreasonably withheld or delayed, and be in a form that is reasonably acceptable to the City Attorney. The parties hereby acknowledge and agree that the provision of the Letters of Credit by Delta and the Other Participating Property Owners pursuant to their respective reimbursement agreements is a material consideration for City's entering into this Agreement, that City would not have entered into this Agreement or reimbursement agreements with the Other Participating Property Owners without the assurance that Delta and the Other Participating Property Owners would provide the required Letters of Credit, and therefore the failure of Delta or any Other Participating Property Owner to provide and maintain the required Letter of Credit shall render City's obligations with respect to the Lathrop Water Supply null and void and of no further force and effect. Notwithstanding the foregoing, in the event that any Other Participating Property Owner does not provide and maintain its required Letter of Credit in accordance with this Section 1(e), then Delta shall have the right, but not the obligation, to replace its Letter of Credit with an amended Letter of credit describing the additional secured obligation of the Other Participating Property Owner and increasing the amount of its Letter of Credit to cover the outstanding amount of said Other Participating Property Owner, in which case the parties' obligations with respect to the Lathrop Water Supply shall remain in full force and effect.

(f) The parties hereby acknowledge and agree that, in addition to Delta's obligation to reimburse City for Delta's Fair Share of the full Lathrop Actual Purchase Price, Delta shall

reimburse City for Delta's Fair Share of all of City's actual costs incurred in acquiring the Lathrop Water Supply, including costs incurred for City staff and consultants' time, pursuant to separate cost recovery agreements between City and Delta.

2. Delta's Obligations Relating to SSJID Water Supply.

(a) Not later than September 1, 2013, Delta shall pay to City its Fair Share of the amount of one hundred fifty thousand dollars ($150,000) ("***Initial SSJID Water Supply Payment***"), which Fair Share constitutes ten thousand and seventy five dollars and forty four cents ($10,075.44).

(b) Not later than thirty (30) days following Delta's receipt of notice from City that City has executed an agreement with SSJID for City's acquisition of the SSJID Water Supply, Delta shall pay its Fair Share of the actual acquisition price ("***SSJID Actual Purchase Price***") to be paid by City for the SSJID Water Supply pursuant to such agreement between City and SSJID, provided that the sum of the SSJID Actual Purchase Price and the Initial SSJID Water Supply Payment does not exceed one million five hundred thousand dollars ($1.5 million). If City cannot acquire the SSJID Water Supply for $1.5 million or less (including the Initial SSJID Water Supply Payment), then City shall have no obligation under this Agreement to obtain the SSJID Water Supply unless and until Delta and all of the Other Participating Property Owners agree, in a written amendment to their respective reimbursement agreements, that they are each willing to pay their respective Fair Share of any such additional amount. Absent such written agreements, if the sum of the SSJID Actual Purchase Price and the Initial SSJID Water Supply Payment to acquire the SSJID Water Supply would exceed $1.5 million, the parties shall have no further obligations hereunder with respect to the SSJID Water Supply. Notwithstanding the foregoing, the parties agree that Delta shall have the right, but not the obligation, to cover the Fair Share of any Other Participating Property Owner that elects not to proceed in the event of any additional costs, and in which case, City shall proceed with the acquisition of the SSJID Water Supply as contemplated herein.

(c) Consistent with Section 1 above, the parties hereby acknowledge and agree that, in addition to Delta's obligation to reimburse City for Delta's Fair Share of the full SSJID Actual Purchase Price, Delta shall reimburse City for Delta's Fair Share of all of City's actual costs incurred in acquiring the SSJID Water Supply, including costs incurred for City staff and consultants' time, pursuant to separate cost recovery agreements between City and Delta.

3. City Obligations.

(a) City shall use good faith and diligent efforts to complete its acquisition of the Lathrop Water Supply on or before August 15, 2013, and to complete its acquisition of the SSJID Water Supply on or before December 31, 2014, subject to and consistent with its legal duties and obligations as a municipal corporation in the State of California, to provide City with sufficient potable water supplies to provide potable water service to Urban Reserve 6 consistent with the service obligations contemplated in the Water Supply Assessment for the Cordes Ranch Specific Plan dated January 2013 (the "***WSA***") and the City of Tracy Cordes Ranch Specific Plan Project Draft Environmental Impact Report dated April 5, 2013 (the "***EIR***").

(b) Nothing in this Agreement shall be interpreted as committing City to a definite course of action with respect to land use planning or any development proposals for or relating to Urban Reserve 6 or its consideration of the proposed Cordes Ranch Specific Plan and any related City permits and approvals. City hereby expressly retains its full discretion in considering land use plans and proposals for Urban Reserve 6, including, without limitation, the

ability to approve or decline to approve the proposed Cordes Ranch Specific Plan and any related City permits and approvals, and this Agreement is in no way binding on City's discretion in this regard.

(c) The parties further acknowledge and agree that by this Agreement, City shall have no obligation to reimburse Delta for the funding provided for herein. Notwithstanding the foregoing, City shall use good faith and diligent efforts to facilitate the reimbursement to Delta from any other property owners that benefit from City's acquisition of the Lathrop Water Supply or the SSJID Water Supply, subject to and consistent with its legal duties and obligations as a municipal corporation in the State of California, as contemplated herein.

(d) In the event the City Council approves the Cordes Ranch Specific Plan and any related City permits and approvals and completes its acquisitions of the Lathrop Water Supply and/or the SSJID Water Supply as contemplated by this Agreement, and provided that the water demands generated by development in Urban Reserve 6 do not exceed the water demand projections for Urban Reserve 6 set forth in the WSA and the EIR, the parties further acknowledge and agree that Delta's reimbursements made under this Agreement (including any additional payments that may be made on behalf of any Other Participating Property Owner pursuant to Sections 1(a), 1(e) and/or 2(b) above) shall be reflected in any Finance Implementation Plan for Urban Reserve 6 and the Cordes Ranch Specific Plan that is or becomes applicable to Delta.

4. Condition Precedent to Effectiveness of City's and Delta's Obligations.

City's and Delta's obligations set forth in Section 1, Section 2 and Section 3 above, shall not be effective unless and until City has received from each of the Other Participating Property Owners, a reimbursement agreement that is substantially similar to this Agreement, as determined by City, and that is signed by an authorized representative of each of the Other Participating Property Owners, requiring each of the Other Participating Property Owners to reimburse City for their respective Fair Share of all of City's costs to acquire the Lathrop Water Supply and the SSJID Water Supply, including costs for City staff time and consultants' time. In the event of a conflict between the language of this Section 4 and any other language or provision of this Agreement, this Section 4 shall prevail.

5. Attorneys' Fees.

In the event any legal action is commenced by a party to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs and expenses incurred related thereto.

6. Modifications.

This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

7. Waivers.

Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

8. Jurisdiction and Venue.

The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

9. Entire Agreement.

This Agreement, including all attached Exhibits, comprises the entire integrated understanding between the parties. This Agreement supersedes all prior negotiations, representations or agreements.

10. Notices.

All notices to be given hereunder shall be in writing and may be personally delivered or mailed to the respective party at the addresses set forth below (either party may modify its address for notice by providing written notice to the other party). Any notice shall be deemed to have been given and received on the first to occur of: (a) actual receipt at the address set forth below; or (b) three (3) working days following the deposit in the United States Mail of registered or certified mail sent to the address set forth below.

City:

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
209.831.6000 (tel)
209.831.6120 (fax)
Attn: City Manager

With a copy to:

City Attorney's Office of City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
209.831.6130 (tel)
209.831.6137 (fax)
Attn: City Attorney

Delta:

1200 Concord Avenue, Suite 200
Concord, CA 94520
925.674.8400 (tel)
925.689.1535 (fax)
Attn: Dana Parry

With a copy to:

Miller Starr Regalia
1331 North California Blvd., Fifth Floor
Walnut Creek, CA 94596
925.935.9400 (tel)
925.933.4126 (fax)
Attn: Nadia Costa

11. Term of Agreement.

The term of this Agreement shall commence on the Effective Date and shall remain effective until Delta has satisfied its reimbursement obligations as set forth herein, or unless and until the Agreement is terminated pursuant to its terms, including but not limited to Section 1(e) above.

12. Indemnification.

Delta shall indemnify, defend and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs and expenses of any kind (including court costs and attorney's fees) resulting from or arising out of this Agreement except in the event and to the extent of City's gross negligence or willful misconduct.

13. Defense of Legal Challenge.

In the event of any administrative, legal, equitable or other action or proceeding instituted by any person, entity or organization, to challenge this Agreement (collectively, "***Challenge***"), Delta shall defend and indemnify City against any and all fees and costs arising out of the defense of such Challenge, including the fees and costs of City's own in-house or special counsel retained to protect City's interests. In the event of any such Challenge, each party shall be entitled to legal counsel of its choice, at Delta' expense, and the parties and their respective counsel shall cooperate with each other in the defense of any such Challenge, including in any settlement negotiations. If a court in any such Challenge in a final judgment awards any form or amount of money damages to such third party as a result thereof, or any attorneys' fees or costs to such third party, Delta shall bear full and complete responsibility to comply with the requirements of such award, and hereby agrees to pay all damages, fees and costs on behalf of City.

14. No Money Damages.

The parties hereby acknowledge that City would not have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its negotiation, preparation, implementation or application. The parties further acknowledge that it is a material part of Delta's consideration to City that City shall not be at any risk whatsoever to liability for money damages relating to or arising from this Agreement, and except for non-damages remedies, Delta, on the one hand, and City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance, which seeks to impose any money damages, whatsoever, upon the parties because the parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement

15. Assignment.

Delta shall have the right to sell, assign, or transfer its rights under this Agreement, in whole or in part, to any individual or entity ("***Assignee***") that secures an interest in the Delta Property, subject to City's consent, which shall not be unreasonably withheld or delayed, and provided

that the Assignee expressly assumes said obligations hereunder. At least thirty (30) days prior to any proposed assignment, Delta shall notify City of its intent to assign this Agreement (in whole or in part) and shall provide to City a copy of the proposed Assignment and Assumption Agreement that would reflect the Assignee's express assumption of any and all obligations hereunder.

16. Signatures.

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Delta and City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY

City of Tracy, a municipal corporation company

By: _____

Its: _____

Date: _____

Attest:

_____

By: _____

Its: CITY CLERK

Date: _____

Approved as to form:

By: _____

Its: CITY ATTORNEY

Date: _____

DELTA

R&B Delta, LLC, a California limited liability company

By: Delta Properties, a California general partnership

Its: Managing Member

By:

Its: General Partner

Date: August 6, 2013

Exhibit A

Legal Description: Delta Property

Real property in the Unincorporated Area of the County of San Joaquin, State of California, described as follows:

PARCEL ONE:

PARCEL C AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD JULY 16, 1981 IN BOOK OF PARCEL MAPS, BOOK 10, PAGE 87, SAN JOAQUIN COUNTY RECORDS; BEING A PORTION OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN.
EXCEPTING THEREFROM THAT PORTION OF THE LAND GRANTED TO MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA IN THAT CERTAIN GRANT DEED RECORDED JULY 13, 2005 AS INSTRUMENT NO. 2005-169002 OF OFFICIAL RECORDS.

PARCEL TWO:

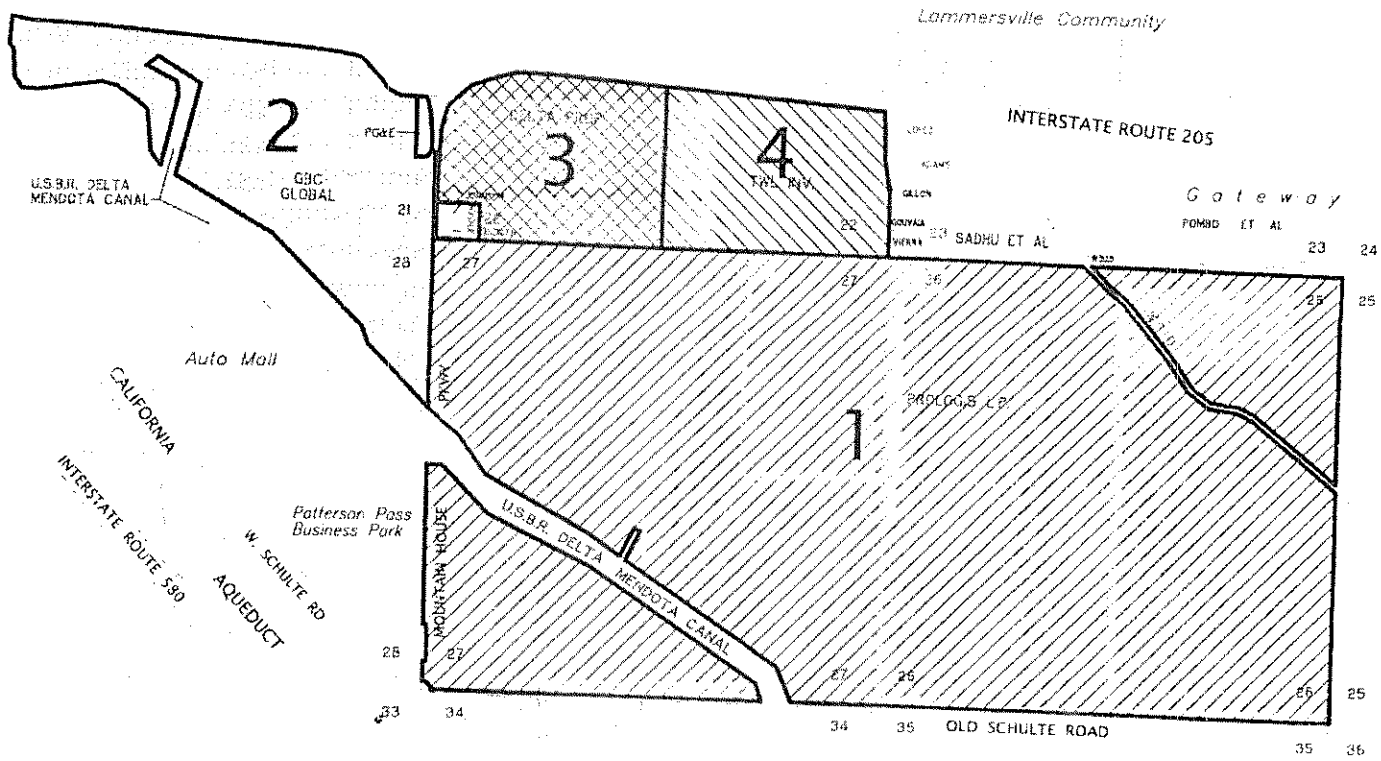
BEING A PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 22, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, ALSO BEING A PORTION OF THAT CERTAIN PARCEL OF LAND GRANTED TO MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT BY THAT CERTAIN DEED RECORDED MARCH 18, 2005 AS INSTRUMENT NO. 2005-064097 OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWESTERN CORNER OF SAID PARCEL OF LAND, SAID CORNER BEING A POINT ON THE SOUTHERN RIGHT-OF-WAY LINE OF CALIFORNIA STATE HIGHWAY 205, AS SAID SOUTHERN LINE IS SHOWN AND SO DESIGNATED ON PAGES 6 AND 7 OF THAT CERTAIN STATE HIGHWAY MAP ENTITLED, .ROUTE 205 BETWEEN 580 & ROUTE 5, DISTRICT 10, SAN JOAQUIN COUNTY", AS PREPARED BY THE STATE OF CALIFORNIA TRANSPORTATION AGENCY, DEPARTMENT OF PUBLIC WORKS, DIVISION OF HIGHWAYS, DATED JUNE 12, 1972; THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE WESTERN LINE OF SAID PARCEL OF LAND SOUTH 03°58'11" WEST (THE BEARING OF SAID WESTERN LINE BEING TAKEN AS SOUTH 03°58'11" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION) 99.647 METERS (326.93 FEET) TO THE POINT OF BEGINNING OF THIS DESCRIPTION;THENCE, CONTINUING ALONG SAID WESTERN LINE SOUTH 03°58'11. WEST, 79.551 METERS(260.99 FEET) TO THE SOUTHERN CORNER OF SAID PARCEL OF LAND;THENCE, FROM SAID SOUTHERN CORNER, AND ALONG THE SOUTHEASTERN LINE OF SAID PARCEL OF LAND, THE FOLLOWING TWO (2) COURSES:

(1) NORTH 14°41.53. EAST 86.770 METERS (284.68 FEET) AND
(2) NORTH 50°10.19. EAST 107.035 METERS (351.16 FEET);

THENCE LEAVING SAID SOUTHEASTERN LINE, SOUTH 70°14.18. WEST 26.476 METERS (86.86 FEET);
THENCE, SOUTH 70°54'03. WEST 40.177 METERS (131.81 FEET);
THENCE, SOUTH 72°58.29" WEST 32.406 METERS (106.32 FEET);
THENCE, SOUTH 03°54'38. WEST 41.331 METERS (135.60 FEET);
THENCE, SOUTH 85°34.27" WEST 1.990 METERS (6.53 FEET) TO SAID POINT OF BEGINNING.

APN:
209-460-300-000 AS TO PARCEL ONE
209-460-250-000 AS TO PARCEL TWO



1 PROLOGIS L.P.

2 GBC GLOBAL INVESTMENTS

3 DELTA PROPERTIES

4 TWL INVESTORS LLC

NORTH

0 1000 2000 4000

GRAPHIC SCALE 1" = 2000'

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT "B"
URBAN RESERVE 6 PROPERTY OWNERS

TRACY CALIFORNIA

DATE	05/28/2013
JOB NO.	A09500
SCALE	1" =2000'
SHEET	2

Z:\2009\A09500\COST SHARING.dwg 4/15/2013 6:59:37 PM PDT

AGREEMENT BETWEEN THE CITY OF TRACY AND TWL INVESTORS, LLC, REGARDING REIMBURSEMENT FOR ACQUISITION OF WATER SUPPLY AND CONVEYANCE CAPACITY

THIS AGREEMENT ("Agreement") is entered into on August 6, 2013 ("***Effective Date***") by and between the City of Tracy, a municipal corporation of the State of California ("***City***") and TWL Investors, LLC, a California limited liability company ("***TWL***"). City and TWL are sometimes referred to herein individually as the "***party***" and collectively as "***parties***."

RECITALS

This Agreement is predicated on the following facts, which are hereby incorporated into and made a part of this Agreement.

A. TWL owns approximately one hundred eight (108) acres of land in unincorporated San Joaquin County, adjacent to the City's municipal boundaries and within the City's sphere of influence, as more particularly described and shown on attached Exhibit A ("***TWL Property***"). The TWL Property is within a larger planning area designated Urban Reserve 6 in the City's current General Plan, which consists of a total of approximately one thousand seven hundred and eighty (1,780) acres, as shown on attached Exhibit B ("***Urban Reserve 6***").

B. Prologis L.P., a Delaware limited partnership ("***Prologis***") owns approximately one thousand two hundred and thirty eight (1,238) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***Prologis Property***"). GBC Global Investments, Inc., a California corporation ("***GBC***") owns approximately one hundred ninety four (194) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***GBC Property***"). R&B Delta, LLC, a California limited liability company ("***Delta***") owns approximately one hundred ten (110) acres of land in Urban Reserve 6, as shown on attached Exhibit B ("***Delta Property***"). Together, Prologis, GBC and Delta may be referred to herein as the "***Other Participating Property Owners***."

C. City is currently preparing a specific plan for Urban Reserve 6 pursuant to Section 65450, *et seq.*, of the California Government Code (the "***Cordes Ranch Specific Plan***"), and TWL and the Other Participating Property Owners are currently seeking various land use entitlements, permits and approvals from City to develop their respective properties in Urban Reserve 6 following the City's adoption of the Cordes Ranch Specific Plan.

D. City is one of four (4) cities that participate in the South County Water Supply Project ("***SCWSP***") with the South San Joaquin Irrigation District ("***SSJID***") for the purchase, treatment and conveyance of potable water supplies. The other cities are the City of Lathrop ("***Lathrop***"), the City of Escalon, and the City of Manteca. Pursuant to separate agreements with SSJID, each participating city is allocated a specific volume of treated water supplies and a specific volume of conveyance capacity in the SCWSP system.

E. Under its agreement with SSJID, Lathrop is currently allocated treated water supplies and conveyance capacity in excess of its current and future projected needs.

F. City desires to purchase from Lathrop an entitlement to approximately one thousand one hundred and twenty (1,120) acre feet annually of water supplies and two (2) million gallons per day ("***MGD***") of treatment and conveyance capacity (together, the "***Lathrop Water Supply***"). City and Lathrop currently anticipate that the purchase price for the Lathrop Water Supply will

be five million dollars ($5,000,000), and further anticipate executing an agreement for Lathrop's sale and City's purchase of the Lathrop Water Supply not later than August 15, 2013.

G. In addition to the Lathrop Water Supply, City desires to acquire from SSJID an entitlement to approximately Two Thousand (2,000) acre feet annually of water supplies ("***SSJID Water Supply***") to further supplement City's water portfolio. City currently anticipates that its acquisition costs for the SSJID Water Supply will be no greater than one million five hundred thousand dollars ($1,500,000), and further anticipates executing an agreement for SSJID to document City's acquisition of the SSJID Water Supply not later than December 31, 2014.

H. By entering into this Agreement, the parties hereby desire to memorialize the terms and conditions under which TWL shall reimburse City for TWL's share of all of City's costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply as set forth more fully herein.

I. It is anticipated that each of the Other Participating Property Owners will enter into substantially similar reimbursement agreements with City, which will provide for each of the Other Participating Property Owners to reimburse City for their respective fair share of costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply. As set forth herein, the parties acknowledge and agree that the validity and effectiveness of each reimbursement agreement will depend upon the validity and effectiveness of the other three agreements, such that all four agreements must be executed for any single agreement to have any validity or effect.

J. City, TWL and the Other Participating Property Owners have agreed that, for purposes of their respective reimbursement agreements with City, their respective fair shares of the costs associated with City's acquisitions and use of the Lathrop Water Supply and the SSJID Water Supply are as follows (each, "Fair Share"):

TWL:	6.95%
Prologis:	73.49%
GBC:	12.84%
Delta:	6.72%

In consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

AGREEMENT

1. TWL's Obligations Relating to Lathrop Water Supply.

At the time that City, Lathrop and SSJID have executed the necessary agreements for Lathrop to sell to City, and City to purchase from Lathrop, the Lathrop Water Supply, then TWL shall reimburse City for TWL's Fair Share of the cost to City of acquiring the Lathrop Water Supply from Lathrop and SSJID as set forth below.

(a) TWL shall reimburse City for TWL's Fair Share of the actual purchase price to City of the Lathrop Water Supply, as set forth in the purchase and sale agreements between City and Lathrop (hereafter, the "***Lathrop Actual Purchase Price***"); provided, however, that if the Lathrop Actual Purchase Price exceeds five million dollars ($5,000,000), then City shall have no

obligations under Section 3 of this Agreement with respect to the Lathrop Water Supply unless and until TWL and each of the Other Participating Property Owners agrees, in a written amendment to their respective reimbursement agreements, that they will each pay their Fair Share of any such additional amount. Notwithstanding the foregoing, the parties agree that TWL shall have the right, but not the obligation, to pay the Fair Share of any Other Participating Property Owner that declines to pay such additional amount, in which case, City's reimbursement agreement with each Other Participating Property Owner that declined to pay its Fair Share of such additional amount shall be null and void as to the Lathrop Water Supply, and City's reimbursement agreement with each Other Participating Property Owner that has agreed, in a written amendment to its reimbursement agreement, to pay such additional amount, shall remain valid and in effect.

(b) Not later than September 15, 2013, TWL shall pay to City its Fair Share of the amount of five hundred thousand dollars ($500,000) ("***Initial Lathrop Water Supply Payment***"), which Fair Share constitutes thirty four thousand seven hundred and fifty nine dollars and ninety two cents ($34,759.92).

(c) TWL shall reimburse City for TWL's Fair Share of the remainder of the Lathrop Actual Purchase Price in six (6) equal, quarterly installments on the following dates (collectively, the "***Installment Payments***") unless TWL elects to pre-pay the entire remaining amount due.

(i) December 31, 2013
(ii) March 31, 2014
(iii) June 30, 2014
(iv) September 30, 2014
(v) December 31, 2014
(vi) March 31, 2015

The amount of each Installment Payment, and the dollar amount of TWL's Fair Share of each Installment Payment, shall be determined by the Lathrop Actual Purchase Price of the Lathrop Water Supply. As of the date of the parties' execution of this Agreement, the parties anticipate that the Lathrop Actual Purchase Price will be five million dollars ($5,000,000). In the event that the Lathrop Actual Purchase Price is $5,000,000, then the amount of each Installment Payment shall be seven hundred fifty thousand dollars ($750,000), and the dollar amount of TWL's Fair Share of each Installment Payment shall be fifty two thousand one hundred and thirty nine dollars and eighty nine cents ($52,139.89). In the event that the Lathrop Actual Purchase Price is more than, as provided herein, or less than $5,000,000, then the amount of each Installment Payment and the dollar amount of TWL's Fair Share of each Installment Payment shall be increased or decreased accordingly.

(d) City shall be entitled to interest on the outstanding balance of the Lathrop Actual Purchase Price, at the rate of Two and One Half Percent (2.5%) per year, payable as follows:

(i) On the same day that TWL pays its Fair Share of the Initial Lathrop Water Supply Payment, TWL shall pay its Fair Share of the interest due to City, calculated from the date that City acquires the Lathrop Water Supply, as set forth in the purchase and sale agreement between City and Lathrop, to the date that TWL pays its Fair Share of the Initial Lathrop Water Supply Payment.

(ii) On the same day that TWL pays its Fair Share of each Installment Payment, Delta shall pay its Fair Share of the interest due to City on the outstanding balance of the

Lathrop Actual Purchase Price, calculated from the date of TWL's preceding payment under this Agreement to the date of such Installment Payment.

(e) Not later than the Effective Date of this Agreement, TWL shall provide to City an irrevocable, standby letter of credit (the "Letter of Credit"), in the amount of three hundred forty seven thousand five hundred and ninety nine dollars and twenty four cents ($347,599.24), which amount is equal to TWL's Fair Share of the anticipated purchase price of the Lathrop Water Supply, to secure and guarantee TWL's performance of its obligation to make payments under this Agreement. The Letter of Credit shall be maintained in effect (i) until TWL has fully reimbursed City for TWL's Fair Share of the entire Lathrop Actual Purchase Price or (ii) unless the parties' obligations under this Section 1 are terminated in accordance with Section 1(a) above, in which case TWL's obligations to maintain the Letter of Credit shall be terminated accordingly; or, if TWL is unable to obtain a Letter of Credit with a duration longer than twelve months, then TWL shall renew or replace the Letter of Credit at least ten (10) days prior to its expiration each year. If TWL fails to renew or replace the Letter of Credit as herein required, then City may draw down the entire amount of the Letter of Credit prior to its expiration for purposes of satisfying the remaining payment obligations relating to the Lathrop Water Supply of TWL hereunder. As TWL pays its Fair Share of the Initial Lathrop Water Supply Payment and each Installment Payment to City, as provided herein, the amount of the Letter of Credit may be reduced by the dollar amount of the payments actually made by TWL; provided, however, that at no time during the effective period of the Letter of Credit shall the amount of the Letter of Credit be less than the total amount of TWL's outstanding reimbursement obligation for the Lathrop Water Supply under this Agreement. The Letter of Credit shall be issued by a bank approved by City, which approval shall not be unreasonably withheld or delayed, and be in a form that is reasonably acceptable to the City Attorney. The parties hereby acknowledge and agree that the provision of the Letters of Credit by TWL and the Other Participating Property Owners pursuant to their respective reimbursement agreements is a material consideration for City's entering into this Agreement, that City would not have entered into this Agreement or reimbursement agreements with the Other Participating Property Owners without the assurance that TWL and the Other Participating Property Owners would provide the required Letters of Credit, and therefore the failure of TWL or any Other Participating Property Owner to provide and maintain the required Letter of Credit shall render City's obligations with respect to the Lathrop Water Supply null and void and of no further force and effect. Notwithstanding the foregoing, in the event that any Other Participating Property Owner does not provide and maintain its required Letter of Credit in accordance with this Section 1(e), then TWL shall have the right, but not the obligation, to replace its Letter of Credit with an amended Letter of credit describing the additional secured obligation of the Other Participating Property Owner and increasing the amount of its Letter of Credit to cover the outstanding amount of said Other Participating Property Owner, in which case the parties' obligations with respect to the Lathrop Water Supply shall remain in full force and effect.

(f) The parties hereby acknowledge and agree that, in addition to TWL's obligation to reimburse City for TWL's Fair Share of the full Lathrop Actual Purchase Price, TWL shall reimburse City for TWL's Fair Share of all of City's actual costs incurred in acquiring the Lathrop Water Supply, including costs incurred for City staff and consultants' time, pursuant to separate cost recovery agreements between City and TWL.

2. TWL's Obligations Relating to SSJID Water Supply.

(a) Not later than September 1, 2013, TWL shall pay to City its Fair Share of the amount of one hundred fifty thousand dollars ($150,000) ("***Initial SSJID Water Supply Payment***"), which

Fair Share constitutes ten thousand four hundred and twenty seven dollars and ninety eight cents ($10,427.98).

(b) Not later than thirty (30) days following TWL's receipt of notice from City that City has executed an agreement with SSJID for City's acquisition of the SSJID Water Supply, TWL shall pay its Fair Share of the actual acquisition price ("***SSJID Actual Purchase Price***") to be paid by City for the SSJID Water Supply pursuant to such agreement between City and SSJID, provided that the sum of the SSJID Actual Purchase Price and the Initial SSJID Water Supply Payment does not exceed one million five hundred thousand dollars ($1.5 million). If City cannot acquire the SSJID Water Supply for $1.5 million or less (including the Initial SSJID Water Supply Payment), then City shall have no obligation under this Agreement to obtain the SSJID Water Supply unless and until TWL and all of the Other Participating Property Owners agree, in a written amendment to their respective reimbursement agreements, that they are willing to each pay their respective Fair Share of any such additional amount. Absent such written agreements, if the sum of the SSJID Actual Purchase Price and the Initial SSJID Water Supply Payment to acquire the SSJID Water Supply would exceed $1.5 million, the parties shall have no further obligations hereunder with respect to the SSJID Water Supply. Notwithstanding the foregoing, the parties agree that TWL shall have the right, but not the obligation, to cover the Fair Share of any Other Participating Property Owner that elects not to proceed in the event of any additional costs, and in which case, City shall proceed with the acquisition of the SSJID Water Supply as contemplated herein.

(c) Consistent with Section 1 above, the parties hereby acknowledge and agree that, in addition to TWL's obligation to reimburse City for TWL's Fair Share of the full SSJID Actual Purchase Price, TWL shall reimburse City for TWL's Fair Share of all of City's actual costs incurred in acquiring the SSJID Water Supply, including costs incurred for City staff and consultants' time, pursuant to separate cost recovery agreements between City and TWL.

3. City Obligations.

(a) City shall use good faith and diligent efforts to complete its acquisition of the Lathrop Water Supply on or before August 15, 2013, and to complete its acquisition of the SSJID Water Supply on or before December 31, 2014, subject to and consistent with its legal duties and obligations as a municipal corporation in the State of California, to provide City with sufficient potable water supplies to provide potable water service to Urban Reserve 6 consistent with the service obligations contemplated in the Water Supply Assessment for the Cordes Ranch Specific Plan dated January 2013 (the "***WSA***") and the City of Tracy Cordes Ranch Specific Plan Project Draft Environmental Impact Report dated April 5, 2013 (the "***EIR***").

(b) Nothing in this Agreement shall be interpreted as committing City to a definite course of action with respect to land use planning or any development proposals for or relating to Urban Reserve 6 or its consideration of the proposed Cordes Ranch Specific Plan and any related City permits and approvals. City hereby expressly retains its full discretion in considering land use plans and proposals for Urban Reserve 6, including, without limitation, the ability to approve or decline to approve the proposed Cordes Ranch Specific Plan and any related City permits and approvals, and this Agreement is in no way binding on City's discretion in this regard.

(c) The parties further acknowledge and agree that by this Agreement, City shall have no obligation to reimburse TWL for the funding provided for herein. Notwithstanding the foregoing, City shall use good faith and diligent efforts to facilitate the reimbursement to TWL

from any other property owners that benefit from City's acquisition of the Lathrop Water Supplies or the SSJID Water Supply, subject to and consistent with its legal duties and obligations as a municipal corporation in the State of California, as contemplated herein.

(d) In the event the City Council approves the Cordes Ranch Specific Plan and any related City permits and approvals and completes its acquisitions of the Lathrop Water Supply and/or the SSJID Water Supply as contemplated by this Agreement, and provided that the water demands generated by development in Urban Reserve 6 do not exceed the water demand projections for Urban Reserve 6 set forth in the WSA and the EIR, the parties further acknowledge and agree that TWL's reimbursements made under this Agreement (including any additional payments that may be made on behalf of any Other Participating Property Owner pursuant to Sections 1(a), 1(e) and/or 2(b) above) shall be reflected in any Finance Implementation Plan for Urban Reserve 6 and the Cordes Ranch Specific Plan that is or becomes applicable to TWL.

4. Condition Precedent to Effectiveness of City's and TWL's Obligations.

City's and TWL's obligations set forth in Section 1, Section 2 and Section 3 above, shall not be effective unless and until City has received from each of the Other Participating Property Owners, a reimbursement agreement that is substantially similar to this Agreement, as determined by City, and that is signed by an authorized representative of each of the Other Participating Property Owners, requiring each of the Other Participating Property Owners to reimburse City for their respective Fair Share of all of City's costs to acquire the Lathrop Water Supply and the SSJID Water Supply, including costs for City staff time and consultants' time. In the event of a conflict between the language of this Section 4 and any other language or provision of this Agreement, this Section 4 shall prevail.

5. Attorneys' Fees.

In the event any legal action is commenced by a party to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs and expenses incurred related thereto.

6. Modifications.

This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

7. Waivers.

Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

8. Jurisdiction and Venue.

The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

9. Entire Agreement.

This Agreement, including all attached Exhibits, comprises the entire integrated understanding between the parties. This Agreement supersedes all prior negotiations, representations or agreements.

10. Notices.

All notices to be given hereunder shall be in writing and may be personally delivered or mailed to the respective party at the addresses set forth below (either party may modify its address for notice by providing written notice to the other party). Any notice shall be deemed to have been given and received on the first to occur of: (a) actual receipt at the address set forth below; or (b) three (3) working days following the deposit in the United States Mail of registered or certified mail sent to the address set forth below.

City:

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
209.831.6000 (tel)
209.831.6120 (fax)
Attn: City Manager

With a copy to:

City Attorney's Office of City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
209.831.6130 (tel)
209.831.6137 (fax)
Attn: City Attorney

TWL:

129 Edelen Avenue
Los Gatos, CA 95030
(408) 354-3600 (tel)
(408) 354-0150 (fax)
Attn: Tim Murphy

With a copy to:

Miller Starr Regalia
1331 North California Blvd., Fifth Floor
Walnut Creek, CA 94596
925.935.9400 (tel)
925.933.4126 (fax)
Attn: Nadia Costa

11. Term of Agreement.

The term of this Agreement shall commence on the Effective Date and shall remain effective until TWL has satisfied its reimbursement obligations as set forth herein, or unless and until the Agreement is terminated pursuant to its terms, including but not limited to Section 1(e) above.

12. Indemnification.

TWL shall indemnify, defend and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs and expenses of any kind (including court costs and attorney's fees) resulting from or arising out of this Agreement except in the event and to the extent of City's gross negligence or willful misconduct.

13. Defense of Legal Challenge.

In the event of any administrative, legal, equitable or other action or proceeding instituted by any person, entity or organization, to challenge this Agreement (collectively, "***Challenge***"), TWL shall defend and indemnify City against any and all fees and costs arising out of the defense of such Challenge, including the fees and costs of City's own in-house or special counsel retained to protect City's interests. In the event of any such Challenge, each party shall be entitled to legal counsel of its choice, at TWL's expense, and the parties and their respective counsel shall cooperate with each other in the defense of any such Challenge, including in any settlement negotiations. If a court in any such Challenge in a final judgment awards any form or amount of money damages to such third party as a result thereof, or any attorneys' fees or costs to such third party, TWL shall bear full and complete responsibility to comply with the requirements of such award, and hereby agrees to pay TWL's Fair Share of all damages, fees and costs on behalf of City.

14. No Money Damages.

The parties hereby acknowledge that City would not have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its negotiation, preparation, implementation or application. The parties further acknowledge that it is a material part of TWL's consideration to City that City shall not be at any risk whatsoever to liability for money damages relating to or arising from this Agreement, and except for non-damages remedies, TWL, on the one hand, and City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance, which seeks to impose any money damages, whatsoever, upon the parties because the parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement

15. Assignment.

TWL shall have the right to sell, assign, or transfer its rights under this Agreement, in whole or in part, to any individual or entity ("***Assignee***") that secures an interest in the TWL Property, subject to City's consent, which shall not be unreasonably withheld or delayed, and provided

that the Assignee expressly assumes said obligations hereunder. At least thirty (30) days prior to any proposed assignment, TWL shall notify City of its intent to assign this Agreement (in whole or in part) and shall provide to City a copy of the proposed Assignment and Assumption Agreement that would reflect the Assignee's express assumption of any and all obligations hereunder.

16. Signatures.

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of TWL and City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY

City of Tracy, a municipal corporation

By: _____

Its: _____

Date: _____

Attest:

_____

By: _____

Its: CITY CLERK

Date: _____

Approved as to form:

By: _____

Its: CITY ATTORNEY

Date: _____

TWL

TWL Investors, LLC, a California limited liability company

By: Timothy Murphy

Its: Managing Member

Date: 7-24-2013

Exhibit A

Legal Description: TWL Property

Real property in the unincorporated area of the County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL ONE:
THE SOUTHEAST QUARTER OF SECTION TWENTY-TWO (22), TOWNSHIP TWO (2) SOUTH, RANGE FOUR (4) EAST, MOUNT DIABLO BASE AND MERIDIAN.
EXCEPT THAT CERTAIN 60 FOOT STRIP OF LAND DESCRIBED IN DEED TO THE WEST SIDE IRRIGATION DISTRICT, RECORDED AUGUST 1, 1919, IN BOOK "A" OF DEEDS, VOL. 372, PAGE 384, SAN JOAQUIN COUNTY RECORDS.

ALSO EXCEPT PORTION OF SAID LAND DESCRIBED IN DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 8, 1952, IN VOL. 1420 OF OFFICIAL RECORDS, PAGE 194, SAN JOAQUIN COUNTY RECORDS.

ALSO EXCEPT THAT PORTION OF SAID LAND DESCRIBED IN DEED TO MELVIN GEORGE HEISER, ET UX, RECORDED JULY 16, 1962, IN VOL. 2573 OF OFFICIAL RECORDS, PAGE 63, SAN JOAQUIN COUNTY RECORDS.

ALSO EXCEPT MAT PORTION OF SAID LAND DESCRIBED IN DEED TO THE STATE OF CALIFORNIA, RECORDED MARCH 13, 1968, IN VOL. 3194 OF OFFICIAL RECORDS, PAGE 489, SAN JOAQUIN COUNTY RECORDS.

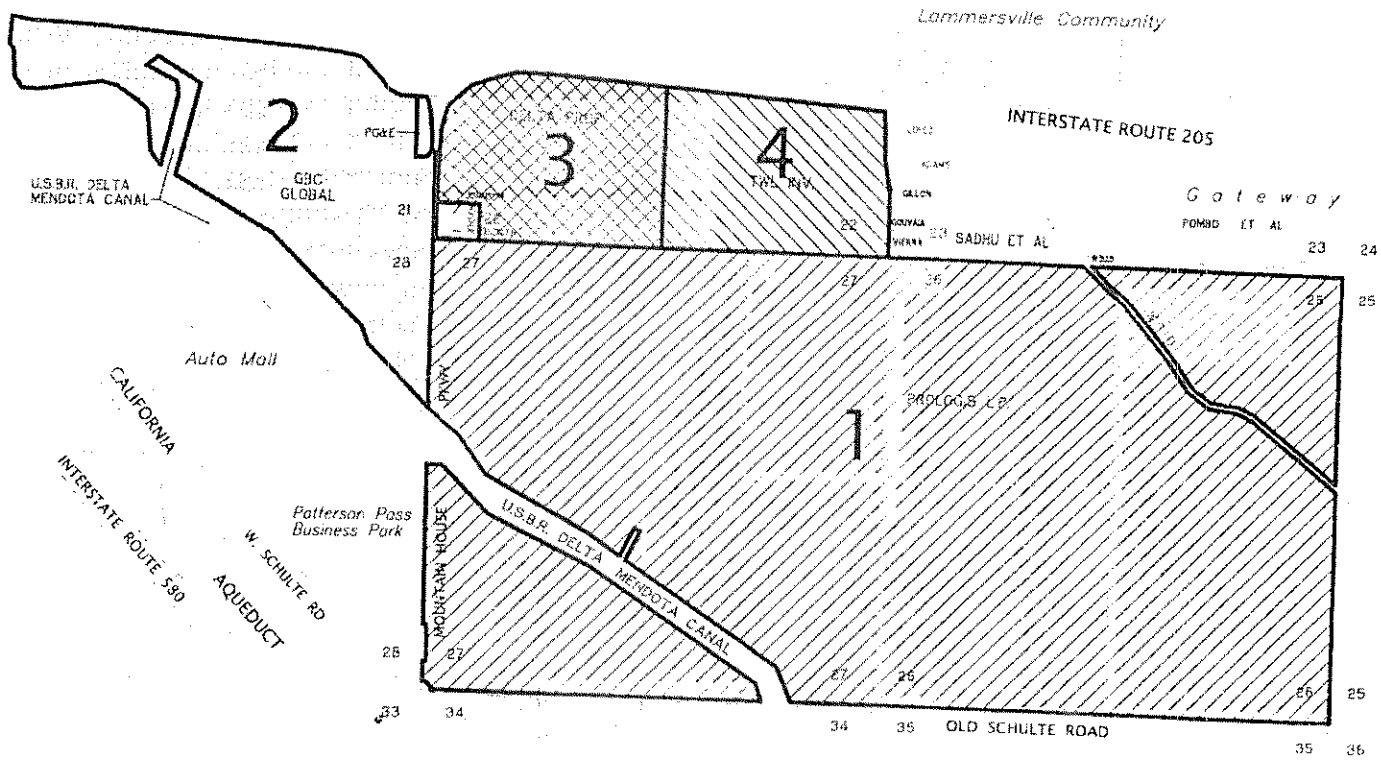
ALSO EXCEPT THAT PORTION DESCRIBED IN THE DEED TO STEVEN K. ORMONDE AND ANNETTE J. ORMONDE, RECORDED AUGUST 14, 1979, AS DOCUMENT NO. 79069038.
PARCEL TWO:

A PORTION OF THAT CERTAIN PARCEL OF LAND DESIGNATED PARCEL ONE IN DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 8, 1952, IN VOL. 1420 OF OFFICIAL RECORDS, PAGE 194, SAN JOAQUIN COUNTY RECORDS, SITUATE IN THE SOUTHEAST QUARTER OF SECTION TWENTY-TWO (22), TOWNSHIP TWO (2) SOUTH, RANGE FOUR (4) EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

ALL OF SAID PARCEL ONE, RECORDED MAY 8, 1952, LYING SOUTHWESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE MOST NORTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESIGNATED PARCEL NO. 3 IN SAID DEED RECORDED MARCH 13, 1968, IN VOL. 3194 OF OFFICIAL RECORDS, PAGE 489, SAN JOAQUIN COUNTY RECORDS; THENCE (1) NORTH 1° 54' 19" WEST, 561.52 FEET; THENCE (2) NORTH 89° 49' 31" WEST, 565.09 FEET TO THE MOST EASTERLY CORNER OF PARCEL NO. 2 AS DESCRIBED IN DEED RECORDED MARCH 13, 1968, IN VOL. 3194 OF OFFICIAL RECORDS, PAGE 489, SAN JOAQUIN COUNTY RECORDS.

APN: 209-460-310-000 (New)
APN: 209-130-036-000 (Old)



1 PROLOGIS L.P.

2 GBC GLOBAL INVESTMENTS

3 DELTA PROPERTIES

4 TWL INVESTORS LLC

NORTH

0 1000 2000 4000

GRAPHIC SCALE 1" = 2000'

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT "B"
URBAN RESERVE 6 PROPERTY OWNERS

TRACY CALIFORNIA

DATE	05/28/2013
JOB NO.	A09500
SCALE	1" =2000'
SHEET	2

Z:\2009\A09500\COST SHARING.dwg 4/15/2013 6:59:37 PM PDT

August 6, 2013

AGENDA ITEM 1.M

REQUEST

APPROVAL OF AMENDMENT NUMBER FOUR TO THE PROFESSIONAL SERVICES AGREEMENT WITH DESIGN, COMMUNITY AND ENVIRONMENT, INC FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT, ASSISTANCE WITH THE PREPARATION OF A SPECIFIC PLAN AND ANNEXATION FOR THE CORDES RANCH SPECIFIC PLAN PROJECT

EXECUTIVE SUMMARY

This request is to approve Amendment Number Four to a Professional Services Agreement with Design, Community, and Environment, Inc., (DC&E) to complete the environmental review for the proposed Cordes Ranch Specific Plan, and assist with the review of the Specific Plan and annexation process through the Local Agency Formation Commission (LAFCo).

DISCUSSION

Background on the Cordes Ranch project

The City's General Plan identifies new growth areas, including Urban Reserve 6 which is known as the approximately 1,700 acre Cordes Ranch project. Property owners approached the City with plans to develop their site and participated in the update of the City's General Plan to refine the basic concepts for development. Over the last three-years, the property owners have participated in the technical analyses related to infrastructure delivery to this and other sites identified in the City's General Plan. Over the past two years property owners began the process to create a Specific Plan for the site and complete environmental review in accordance with the California Environmental Quality Act (CEQA). A Specific Plan is a comprehensive planning document that establishes the infrastructure requirements for a particular development as well as the development standards (and zoning) that will guide development as the project is phased. The City is actively working on the Cordes Ranch Specific Plan and Environmental Impact Report, as well as negotiating a Development Agreement.

Background on the Professional Services Agreement with DC&E and the Current Request for an Amendment

After a formal Request for Proposal process, City Council approved a Professional Services Agreement with DC&E on January 18, 2011, (Resolution 2011-017).
The contract was approved for the amount of $353,402. Subsequently, the ownership group requested adjustments to the land use pattern and distribution of land uses throughout the Specific Plan area that came after significant work had been completed to model traffic impacts. The owner-requested changes required additional work related to traffic modeling at a cost of $32,780. Additionally, given the complexity of the project, staff and the project owners requested an additional $15,000 to be added to the contingency to cover unforeseen costs associated with completing the environmental review and annexation work. These augmentations to the scope of work were approved with Amendment Number One to the PSA, approved by City Council on June 19, 2012.

Amendment Number Two included additional work related to changes in the Draft Specific Plan resulting from recent City Council direction on land uses along the

freeway, and owner requested changes to phase one of the project. Specifically, the work included a Health Risk Assessment focused on the potential for the project to result in impacts associated with proximity of employment located along the I-205 corridor and arterial roadways in the project area. This work included identifying mitigation measures to reduce potential air quality impacts of the project. The results of such analyses are to be incorporated into the EIR and modeling included as an Appendix to the EIR. The work under Amendment Two also involved additional traffic analysis including revising Phase 1 and buildout trip generation totals and allocations to Traffic Analysis Zones (TAZ), revising 2035 Plus Phase 1 intersection turn movements, revising 2035 plus Phase 1 Level of Service analysis, including revisions to land configurations where appropriate, and revising buildout roadway segment volumes and calculate v/c ratios, pivoting off the Transportation Master Plan Buildout case. Such work is to be incorporated into the EIR and included in the EIR appendix.

The costs of the work for Amendment Number Two was an additional $67,549 which included additional contingency for the consultants to address unanticipated issues as they arise in the analyses.

Amendment Number Three was required to address completing environmental review, including work related to Air Quality modeling of full build-out of the Specific Plan, anticipated time to respond to comments and revise the Air Quality chapter of the EIR. Work was also required in the areas of Noise, Hazards and Hazardous Materials, Geology, Soils, and Seismicity, including work related to on-site soil conditions. Cultural Resources portions of the EIR included additional information about the project site and records review to complete the Cultural Resources section of the EIR. Biological Resources work was augmented to include additional review and discussion of special-status species in the project area. The traffic and transportation section of the EIR included additional screening analyses, inclusion of an Existing-Plus-Project roadway segment analysis, and a 2035-Plus-Project roadway analysis. The work also included adding an alternative mitigation strategy, adding an AM peak hour freeway analysis, a 2035-Plus-Phase 1 intersection analysis, and additional analysis for trigger points and alternative intersection configurations. A Phase 1 environmental analysis was completed under this Amendment, as well as additional meetings, and additional time in anticipation of responding to comments on the EIR.

Amendment Number Four, the current amendment, is a result of extensive comments from Caltrans, where additional information and analysis is sought in the areas of 2035 plus project build out analyses, and specifically analysis related to improvements at I-205 and Mt. House Parkway and I-580 at Patterson Pass as well as freeway convergence at I-205 and I-580. Additional work on the Final EIR and Response to Comments is need which includes additional coordination with Caltrans, Mt. House and revisions to the Final EIR.

STRATEGIC PLAN

The Cordes Ranch project is planned to be a significant jobs center for the City as it develops over time. The City's Economic Development Strategy establishes Goal 1 to "Increase the Jobs Opportunities in Tracy." Objectives 1 and 2 under that Goal are to "Increase the Quantity and Quality of jobs in Tracy" and to "Diversify Tracy's Economic Base." As a 1,700 acre industrial, commercial and office project with elements of mixed-

use, the Cordes Ranch project at build out over many years will accommodate tens of thousands of new jobs in Tracy.

FISCAL IMPACT

There will be no impact to the General Fund. On March 3, 2011 the project proponents entered into a Cost Recovery Agreement with the City to cover all costs associated with processing the project, including consultant costs.

RECOMMENDATION

Staff recommends that City Council, by resolution, approve Amendment Number Four to the Professional Services Agreement with DC&E in the amount of $35,102 and authorize the Mayor to execute the Amendment.

Prepared by: Bill Dean, Assistant Development Services Director

Reviewed by: Andrew Malik, Development Services Director

Approved by: R. Leon Churchill Jr., City Manager

ATTACHMENTS

Attachment A - Amendment Number Four to the Professional Services Agreement with DC&E

Attachment A

CITY OF TRACY
AMENDMENT NO. 4 TO
PROFESSIONAL SERVICES AGREEMENT
FOR THE CORDES RANCH SPECIFIC PLAN REVIEW, ANNEXATION, AND ENVIRONMENTAL IMPACT REPORT PROJECT

This Amendment No. 4 (hereinafter "Amendment") to the Professional Services Agreement is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "CITY"), and DESIGN, COMMUNITY & ENVIRONMENT (hereinafter "CONSULTANT").

RECITALS

A. The CITY and CONSULTANT entered into a Professional Services Agreement (hereinafter "Agreement") for the Cordes Ranch Specific Plan Review, Annexation, and Environmental Impact Report project which was approved by the City Council on January 18, 2011, pursuant to Resolution No. 2011-017.

B. WHEREAS, the areas of traffic modeling and coordination with Caltrans and the Community of Mountain House, and additional work on completing the Final Environmental Impact Report are required, some of which requires technical work from traffic sub-consultants.

C. WHEREAS, the CITY has requested services by the CONSULTANT to complete the additional work.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Incorporation By Reference.** This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement which are not specifically modified by this Amendment shall remain in full force and effect.

2. **Terms of Amendment.** Section 1 of the Agreement is amended to include additional project analysis and work (Task C of Exhibit A of Agreement) related to additional technical work required to analyze a 2035 plus build-out movement volumes on various roadways including I-205 / Mt House Parkway interchange and the I-580 / Patterson pass Interchange, analysis of the I-205 and I-580 connector ramps under 2035 build-out conditions, on-call support and coordination with Caltrans and the Community of Mountain House, which involves time from Principal – level sub-consultants and attendance at meetings to explain technical traffic mitigations and data, which shall take the form of additional technical memorandum and data for inclusion in the Final EIR. This work also includes additional conference telephone calls with staff, revisions to the Final EIR, Mitigation Monitoring and Reporting Program, and CEQA Findings, and attendance at public hearings, including the preparation of power point presentations for City Council and the

Planning Commission, as more fully described in Exhibit 1 to this Amendment Number 4. Section 5.1 is amended to include a new Not to Exceed limit of $557,833 which is an increase of $35,102.

3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.

4. **Severability.** In the event any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in full force and effect.

INTENTIONALLY LEFT BLANK

5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the Subdivider and the City. This Amendment shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY

By: _____
Brent H. Ives
Title: Mayor
Date: _____

Attest:

By: _____
Sandra Edwards
Title: City Clerk
Date: _____

Approved as to form

By: _____
Daniel G. Sodergren
Title: City Attorney
Date: _____

CONSULTANT

By: _____
Steve Noack, AICP
Title: Principal
Date: JULY 24, 2013

By: _____
Keith McCann
Title: Chief Executive Officer
Date: 7-25-13

Exhibit 1 to PSA Amendment Number 4

Traffic

This contract modification addresses the City of Tracy's request for the following services not covered under the original contract or subsequent contract modifications current contract.

Fehr & Peers will complete the following subtasks:

1. Development of 2035 Plus Build-Out turn movement volumes on Mountain House Parkway between Capital Parks Drive and the I-205 interchange, and assessment of mitigation options at the interchange. Includes additional freeway analysis requested by Caltrans and support and consultation with Kimley Horn Associates, who provided additional analysis of the improvement options.

2. Development of 2035 Plus Build-Out turn movement volumes at the I-580/Patterson Pass Road interchange and assessment of mitigation options at the interchange, including intersection evaluation, ramp storage requirements (metered and non-metered operation) and freeway merge/diverge analysis.

3. Analysis of the I-205/I-580 connector ramps under 2035 Plus Build-Out conditions.

4. On-call support to City staff on FEIR issues and to Caltrans to answer technical questions and provide additional information and analysis – estimate 48 hours over the July – August time period, split between Fred Choa, Dave Stanek and Ellen Poling. We will charge against this hours estimate only as needed based on Caltrans and City requests.

5. Meeting attendance:

    - Meeting with Caltrans and Mountain House at City Hall
    - Two meetings (estimated) at Caltrans District 10 offices to review additional analysis
    - Planning Commission and City Council meetings

Meetings

The Planning Center | DC&E will participate in conference calls with the City of Tracy and consultant team on revisions to the Final EIR. Additional hours have been anticipated for coordination in preparation for Planning Commission and City Council hearings.

Final EIR Updates and Re-publication

The Planning Center | DC&E will update the Final EIR based on edits resulting from work completed by Fehr & Peers (listed above), and as directed by the City of Tracy. The Planning Center | DC&E will finalize the Final EIR and will coordinate the re-publication of the document.

PREVIOUS CONTRACT AMOUNT $ 522,731.00

AMOUNT OF THIS AMENDMENT $35,102.00

NEW TOTAL CONTRACT AMOUNT $557,833.00

Table #1
The Planning Center | DC
Cordes Ranch Specific Plan Review and EIR
Contract Modification #4

	The Planning Center | DC&E				Fehr & Peers					
Hours per Task	**Principal**	**Associate**	**Project Planner**	**Graphics/Word Processor**	**Principal**	**Project Manager**	**Senior - Forcasting Engineer**	**Senior Traffic Operations Engineer**	**Forcasting Engineer**	**Operations**
Task C. Environmental Review	24	12	10	4	24	42	9	29	3	4
Total Hours	24	12	10	4	24	42	9	29	3	4
Billing Rate	$190	$135	$85	$80	$245	$205	$210	$185	$130	$115
Labor Cost	$4,560	$1,620	$850	$320	$5,880	$8,610	$1,890	$5,365	$390	$460
Total Firm Labor Cost				$7,350						$22,595
EXPENSES										
Subconsultant Administration (10%)				2,510						-
Direct Costs - Fehr & Peers (mileage, Offic expenses, etc.)				-						1,000
Office Expenses (Phone, Fax, Copies, etc. @ 2% of Labor)				147						-
Over-budget work through June invoice				-						1,500
Total Expenses				$2,657						$2,500
TOTAL PER FIRM				$10,007						$25,095
GRAND TOTAL				**$35,102**						

RESOLUTION 2013-____

APPROVING AMENDMENT NUMBER FOUR TO PROFESSIONAL SERVICES AGREEMENT WITH DESIGN, COMMUNITY AND ENVIRONMENT, INC. FOR THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT, ASSISTANCE WITH THE PREPARATION OF A SPECIFIC PLAN AND ANNEXATION FOR THE CORDES RANCH SPECIFIC PLAN PROJECT

WHEREAS, The City of Tracy's General Plan establishes areas for future growth, and identifies one of those areas as Urban Reserve 6, otherwise known as the Cordes Ranch site; and

WHEREAS, An application was submitted to the City of Tracy for preparation of a General Plan amendment, creation of a Specific Plan, and annexation to the City of Tracy; and

WHEREAS, An Environmental Impact Report completed in accordance with the California Environmental Quality Act will be required for the project; and

WHEREAS, Consultant assistance and additional technical traffic analyses are necessary in order to timely process the applications; and

WHEREAS, In accordance with Tracy Municipal Code Section 2.20.140 a formal Request for Proposals process was conducted and the proposal submitted by Design, Community and Environment (DC&E) best meets the City's needs by demonstrating the competence and professional qualifications necessary for the satisfactory performance of the project; and

WHEREAS, On March 3, 2011 the City entered into a Cost Recovery Agreement with the proponents of the Cordes Ranch project to cover the costs of staff time and consultant work related to the Cordes Ranch Specific Plan Project; and

WHEREAS, City Council approved a Professional Services Agreement with DC&E on January 18, 2011 by Resolution Number 2011-017 in the amount of $353,402; and

WHEREAS, City Council approved amendment number one to the Professional Services Agreement with DC&E on June 19, 2012 by Resolution Number 2012-117; and

WHEREAS, City Council approved amendment number two on November 20, 2012 in the amount of $67,549; and

Whereas, City Council approved amendment number three on March 5, 2013 in the amount of $54,000; and

WHEREAS, additional work is required to complete the environmental analysis and documentation, which includes additional technical traffic analyses and work in the amount of $35,102;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves Amendment Number Four to Professional Services Agreement with Design, Community and Environment, in the amount of $35,102 for the preparation of an Environmental Impact Report, assistance with

the preparation of a Specific Plan, and annexation for the Cordes Ranch Specific Plan project, and authorizes the Mayor to execute the Agreement.

The foregoing Resolution was adopted by the Tracy City Council on the 6th day of August, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

August 6, 2013

AGENDA ITEM 1.N

REQUEST

APPROVAL OF A REAL PROPERTY PURCHASE AGREEMENT WITH MARIA O. SILVA REVOCABLE TRUST AND BERNADINE (A.K.A. BERNARDINE) SILVA FOR ACQUISITION OF THE RIGHT-OF-WAY FOR A STORM DRAINAGE CHANNEL IN THE NORTH EAST INDUSTRIAL (NEI) AREA AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

Purchase of certain real property is essential for the construction of a storm channel to serve the widening of Grant Line Road, East of MacArthur Drive and to serve the developments in the NEI area. Execution of this agreement will facilitate payment of the purchase price, recordation of title and the start of construction of the storm channel.

DISCUSSION

The Northeast Industrial Storm Drainage Analysis identifies construction of a 65 foot wide storm drainage channel from Grant Line Road to Pescadero Avenue between Paradise Road and Chrisman Road. This storm drainage channel will serve North East Industrial developments and storm drainage run-off from the widening of Grant Line Road, which is presently under construction.

A total of 62,704 square feet of right of way is needed from the real property owned by Maria O. Silva Revocable Trust and Bernadine (a.k.a. Bernardine) Silva for the western portion of this channel. The eastern portion with the same square footage has already been acquired by the City from adjacent development.

During the City Council closed session meeting of July 16, 2013, City Council considered this matter and directed staff regarding the negotiations with the owners of record.

The property owners have agreed to sell the real property in fee to the city as follows:

OWNER OF RECORD	
1. Maria O. Silva Revocable Trust	$235,140
2. Bernadine (a.k.a. Bernardine) Silva	$ 78,380

FISCAL IMPACT

There is no fiscal impact to the General Fund. The purchase of the real property for the storm drainage channel is funded from North East Industrial funds.

RECOMMENDATION

That City Council approve, by resolution, a real property purchase agreement with Maria O. Silva Revocable Trust and Bernadine (a.k.a. Bernardine) Silva for acquisition of the right-of-way for the storm drainage channel in the North East Industrial (NEI) area in the amounts of $235,140 and $78,380 respectively; and authorize the Mayor to execute the agreement.

Prepared by: Kuldeep Sharma, City Engineer

Reviewed by: Andrew Malik, Development Services Director

Approved by: R. Leon Churchill, Jr., City Manager

RESOLUTION 2013-____

APPROVING A REAL PROPERTY PURCHASE AGREEMENT WITH MARIA O. SILVA REVOCABLE TRUST AND BERNADINE (AKA BERNARDINE) SILVA FOR ACQUISITION OF RIGHT-OF-WAY FOR STORM DRAINAGE CHANNEL IN THE NORTH EAST INDUSTRIAL (NEI) AREA, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The NEI Storm Drainage Analysis identifies construction of a 65-foot wide storm drainage channel from Grant Line Road to Pescadero Avenue between Paradise Road and Chrisman Road; and

WHEREAS, This storm drainage channel will serve NEI development and storm run-off from widening of Grant Line Road which is presently under construction; and

WHEREAS, A total of 62,704 square feet of right-of-way is needed from real property owned by Maria O. Silva Revocable Trust and Bernadine (a.k.a. Bernardine) Silva for the western portion of this storm drainage channel; and

WHEREAS, The eastern portion of this channel with the same square footage has already been acquired by the City from adjacent development; and

WHEREAS, During the City Council closed session meeting of July 16, 2013, Council considered this matter and directed staff regarding negotiations with the owners of record; and

WHEREAS, The property owners have agreed to sell the real property in fee to the City as follows;

1. Maria O. Silva, Trust $235,140
2. Bernadine (AKA Bernardine) Silva $ 78,380

NOW THEREFORE, BE IT RESOLVED, That City Council approves a real property purchase agreement with Maria O. Silva Revocable Trust and Bernadine (a.k.a. Bernardine) Silva for acquisition of right-of-way for storm drainage channel in the North East Industrial (NEI) area in the amount of $235,140 and $78,380 respectively, and authorizes the Mayor to execute the agreement.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 6th day of August, 2013 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST

_____
CITY CLERK