# AGENDA

## MARCH 5, 2024

## REGULAR MEETING
## CITY COUNCIL
## CITY OF YUBA CITY

## 6:00 P.M. REGULAR MEETING
## COUNCIL CHAMBERS/VIRTUAL

| | | |
|---|---|---|
| MAYOR | • | Shon Harris |
| VICE MAYOR | • | Dave Shaw |
| COUNCILMEMBER | • | Marc Boomgaarden |
| COUNCILMEMBER | • | Wade Kirchner |
| COUNCILMEMBER | • | Michael Pasquale |
| CITY MANAGER | • | Diana Langley |
| CITY ATTORNEY | • | Shannon L. Chaffin |

**1201 Civic Center Blvd**
**Yuba City CA 95993**

***Wheelchair Accessible***

*The City has adopted a Reasonable Accommodations Policy that provides a procedure for receiving and resolving requests for accommodation to participate in this meeting. Please visit yubacity.net ADA & Accessibility Resources page. If you need assistance in order to attend the City Council meeting, or if you require auxiliary aids or services, e.g., hearing aids or signing services to make a presentation to the City Council, the City is happy to help. Accommodations should be requested as early as possible as additional time may be required in order to provide the requested accommodation; 72 hours in advance is suggested. Please contact City offices at (530) 822-4817 or* ***(TTY: 530-822-4732),*** *so such aids or services can be arranged. Requests may also be made by email at cityclerk@yubacity.net or citymanager@yubacity.net or mail City Clerk, 1201 Civic Center Blvd, Yuba City, CA 95993.*

**AGENDA**
**REGULAR MEETING**
**CITY COUNCIL - CITY OF YUBA CITY**
**MARCH 5, 2024**
**6:00 P.M. REGULAR MEETING**
**COUNCIL CHAMBERS/VIRTUAL**

Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's office at 1201 Civic Center Blvd., Yuba City, during normal business hours. Such documents are also available on the City of Yuba City's website at www.yubacity.net, subject to staff's availability to post the documents before the meeting.

The Council Chambers will be open for public attendance and participation. The meeting will also be live streamed for public viewing, but not participation, at the following link: https://yubacity-net.zoom.us/webinar/register/WN_vdEp99K3TFajQWhAQ_4NIw. Emailed comments sent to cityclerk@yubacity.net at least 24 hours before the meeting will be distributed to the City Council prior to the meeting. Please identify the Agenda item(s) addressed by the comments.

**Regular Meeting**

Call to Order

Roll Call

__ Mayor Harris
__ Vice Mayor Shaw
__ Councilmember Boomgaarden
__ Councilmember Kirchner
__ Councilmember Pasquale

Invocation/Inspiration

Pledge of Allegiance to the Flag

Agenda Modifications/Approval of Agenda

**Ceremonial Presentations**

**1. Yuba City Downtown Business Association President Sandee Drown Proclamation**

**Public Communication**

**2. Appearance of Interested Citizens**

You are welcome and encouraged to participate in this meeting. Public comment is taken on action items appearing on the Consent Calendar or Business Items on the Agenda when they are called. Public comment on any other items within the scope of the City's jurisdiction,

including items not listed on the Agenda will be considered at this time. Public comment is limited to three minutes per speaker. Members of the public submitting written requests at least 24 hours prior to the meeting will be allotted five minutes to comment per speaker. Repetitive comments may be limited, and large groups are encouraged to select representatives to express the opinions of the group.

**Consent Calendar**

All matters listed under Consent Calendar are considered to be routine and can be enacted in one motion. There will be no separate discussion of these items prior to the time that Council votes on the motion unless members of the City Council request specific items to be discussed or removed from the Consent Calendar for individual action.

**3. Minutes from the Regular Meeting of the City Council on February 20, 2024**

Recommendation: Approve minutes from the February 20, 2024 Regular Meeting of the City Council

**4. Adoption of updated District Boundaries to include property annexed into the City**

Recommendation: Adopt an Ordinance of the City Council of the City of Yuba City amending Section 2-9.05 of the Yuba City Municipal Code and adopting revised district boundaries; by title only and waive the second reading

**5. Sale of 1488 Royo Ranchero Drive to Stewart Gibbs**

Recommendation: Adopt a Resolution that:

A. Authorizes the City Manager to execute and Agreement for Purchase and Sale of Real Property located at 1488 Royo Ranchero Drive (APN 062-210-002), and all other necessary documents, in the amount of $18,000 to Stewart Gibbs, subject to approval of the City Attorney as to legal terms

B. Authorizes the Finance Director to place sale proceeds in the Water Fund

**6. Appointments to the City of Yuba City Parks & Recreation and Senior Commissions**

Recommendation: Approve the Recommendations for the appointment of one (1) new member to the Parks & Recreation Commission and the reappointment of two (2) members to the Senior Commission

**7. FEMA Letter of Concurrence**

Recommendation: Adopt a Resolution authorizing the Public Works Director to submit a Letter of Concurrence to the Federal Emergency Management Agency supporting a Letter of Map Revision request

**8. Presentation of Investment Report – Quarter Ended December 31, 2023**

Recommendation: Note & File Quarterly Investment Report

**9. Merriment Village - Cooperative Agreement for Grant Application**

Recommendation: Adopt a Resolution authorizing the Mayor to enter into a Cooperative Agreement with Habitat for Humanity Yuba/Sutter, Inc. for the Affordable Housing and Sustainable Communities Program, subject to review and approval by the City Attorney

## Business Items

**10. Consideration of a Development Agreement for the West Railroad Village Tentative Subdivision Map (TSM) 23-02**

Recommendation: A. Conduct a Public Hearing; then

B. Introduce an Uncodified Ordinance of the City Council of the City of Yuba City approving Environmental Assessment 23-07 by Adopting a Mitigated Negative Declaration prepared for Tentative Subdivision Map (TSM) 23-02, West Railroad Village Subdivision and approving a Development Agreement between the City of Yuba City and Junior S. Thiara, an individual, for the West Railroad Village Subdivision (TSM 23-02), on 4.8 acres located on the west side of Railroad Avenue approximately 200 feet south of the intersection of Railroad Avenue and Bogue Road (Assessor's Parcel Number 55-240-002) by title only and waive the first reading

## Future Agenda Items

**11. Future Agenda Items**

## Reports and Communications

The following reports and communication items are provided for the Council's information. No action can be taken on items under this section unless the Council agrees to include it on a subsequent agenda

**12. City Manager's Report**

**13. City Council Reports**

## Adjournment

# Proclamation

of the City Council

# Sandee Drown

## Downtown Business Association

***WHEREAS,*** *Sandee Drown a dedicated volunteer from 2017 – 2024 served on the Downtown Business Association Board of Directors as the Events Committee Chair; served as President and as a Board of Director Past President; and*

***WHEREAS,*** *as a business owner of The Happy Viking, Sandee has supported the surrounding communities with countless donations; and*

***WHEREAS,*** *the accomplishments by Sandee and the DBA are extensive and include, but are not limited to, creating the Bunny Hop and the Trick or Treat street events; increased the attendance and revenues of both the downtown Summer and Christmas Strolls; budgeted for tree lights to improve both the beautification of the downtown area and the safety of patrons; and*

***WHEREAS,*** *as DBA President, Sandee was a strong advocate for small businesses to stay open during COVID and successfully lobbied for a $10,000 grant from Sutter County to assist downtown restaurants with outdoor dining equipment during the COVID pandemic; and*

***WHEREAS****, Sandee was instrumental in strengthening the relationship between the Yuba City Police Department Homeless Liaison Officers and the downtown merchants; and*

***WHEREAS,*** *Sandee Drown's leadership, dedication, professionalism and commitment have helped make the downtown community a better place for all to experience, shop, dine and visit.*

***NOW, THEREFORE, BE IT RESOLVED,*** *that I, Shon Harris, Mayor of the City of Yuba City, on behalf of our entire City Council, hereby recognize and commend Sandee Drown's outstanding dedication to the Downtown Business Association and to enhancing the experience in downtown Yuba City.*

*Done on this 5th day of March 2024, at the City of Yuba City, County of Sutter, State of California.*

## Public Communication

Members of the public may address the City Council on items of interest that are within the City's jurisdiction. Individuals addressing general comments are encouraged to limit their statements.

### Procedure

You are welcome and encouraged to participate in this meeting. Complete a Speaker Card located in the lobby and give to the Clerk, public comment is taken on action items appearing on the Consent Calendar or Business Items on the Agenda when they are called. Public comment on any other items within the scope of the City's jurisdiction, including items not listed on the Agenda, will be considered at this time.

When a matter is announced, wait to be recognized by the Mayor to provide your comments to the Council. Comments should begin by providing your name and place of residence. A three minute limit is requested when addressing Council.

## Request for additional time to address Council

Members of the public submitting written requests at least *24 hours* prior to the meeting will be allotted 5 minutes to comment per speaker. Repetitive comments may be limited, and large groups are encouraged to select representatives to express the opinions of the group.

### Procedure

When requesting to comment, please indicate your name and the topic and mail to:

City of Yuba City
Attn: City Clerk
1201 Civic Center Blvd
Yuba City CA 95993

Or email to:

Jackie Sillman, City Clerk
cityclerk@yubacity.net

Agenda Item **3**

CITY OF YUBA CITY
STAFF REPORT

**Date:** March 5, 2024
**To:** Honorable Mayor & Members of the City Council;
**From:** Administration Department
**Presentation By:** Ciara Wakefield, City Clerk Administrator

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**Summary**

**Subject:** Minutes from the Regular Meeting of the City Council on February 20, 2024
**Recommendation:** Approve minutes from the February 20, 2024 Regular Meeting of the City Council
**Fiscal Impact:** None

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**Attachments:**
1. 02-20-2024 Regular Meeting Minutes (DRAFT)

Prepared By:
Ciara Wakefield
City Clerk Administrator

Submitted By:
Diana Langley
City Manager

# ATTACHMENT 1

**MINUTES (DRAFT)**
**REGULAR MEETING**
**CITY COUNCIL - CITY OF YUBA CITY**
**FEBRUARY 20, 2024**

**5:30 P.M. CLOSED SESSION**
**SUTTER ROOM/VIRTUAL**

**6:00 P.M. REGULAR MEETING**
**COUNCIL CHAMBERS/VIRTUAL**

## Call to Order

The Closed Session Meeting of the City Council was called to order by Mayor Harris at 5:31 PM

## Roll Call

Present: Mayor Harris and Councilmembers Boomgaarden, Kirchner, Shaw, and Pasquale

Absent: None

## Closed Session

A. Conference With Legal Counsel—Existing Litigation (Pursuant to Government Code Section 54956.9(d)(1))
Name of case: Flores v. City of Yuba
City Case number: CVCS22-0000820

No public comment received

## Regular Meeting

## Call to Order

The Regular Meeting of the City Council was called to order by Mayor Harris at 6:02 PM

## Roll Call

Present: Mayor Kirchner and Councilmembers Boomgaarden, Harris, Shaw, and Pasquale

Absent: None

## Invocation/Inspiration

Dave Shaw, Vice-Mayor

## Pledge of Allegiance to the Flag

Wade Kirchner, Councilmember

## City Attorney's Report on Closed Session Items

No reportable action

## Agenda Modifications/Approval of Agenda

No changes were made

## Ceremonial Presentations

**1. 2023 Police Officer of the Year Proclamation**

Mayor Harris presented a proclamation to Officer Meagan Ross

Laura Nicholson presented a proclamation on behalf of Senator Niello
Isabella Morgan spoke on behalf of Assemblyman Gallagher
David Morgan presented a Congressional Certificate on behalf of Congressman LaMalfa

## Public Communication

**2. Appearance of Interested Citizens**

No public comment

## Consent Calendar

Councilmember Pasquale moved and Vice-Mayor Shaw seconded the motion to approve Consent Calendar items 3-9:

**3. Minutes from the Regular Meeting of the Successor Agency and the City Council on February 6, 2024**

Approve minutes from the February 6, 2024 Regular Meeting of the Successor Agency and the City Council

**4. Destruction of Specified Yuba City Police Department Records**

Adopt **Resolution 24-010** authorizing the Chief of Police to destroy specified Yuba City Police Department records which have exceeded their retention period, occupy valuable storage space and are of no further use to the City of Yuba City or Yuba City Police Department

**5. Citywide Copier Lease Agreement**

Adopt **Resolution 24-011** authorizing the City Manager to enter into a 5-year lease agreement with Advanced Document Concepts of Chico, CA to provide Kyocera copiers and printers utilizing the OMNIA Partners Contract #R191102 for a not to exceed amount of $36,000 per year with the finding it is in the best interest of the City

**6. Short Term Disability Programs for Employees**

Adopt **Resolution 24-012**:

A. Approving the side letters with the Yuba City Police Officers' Association, Police First Level Managers, Public Employees' Union, Local 1/AFSCME 57, Mid-Managers, and First Level Managers

B. Approving the Resolution with Confidential employees

C. Authorizing City Manager to execute contract amendments with Executive Team members

**7. Newkom Ranch Development Agreement Amendment**

Adopt **Uncodified Ordinance 003-24** of the City Council of the City of Yuba City adopting the Restated Newkom Ranch Development Agreement for the Newkom Ranch Portion of the Bogue-Stewart Master Plan; Assessor's Parcels 55-240- 011, 55-240-013, 55-240-012, 55-240-015, 55-240-017, 55-240-016, 55-240- 018, 55-240-005; by title only and waive the second reading

**8. Salary Schedule, Rules and Regulations Update, and One-Time Bilingual Pay Stipends**

Adopt **Resolution 24-013**:

A. Authorize the Finance Director to amend the salary schedule to remove the Relief Dispatcher classification from Part-Time, Extra Help, Limited Term and At-Will Contract Employees

B. Approve bilingual pay incentive for part-time/temporary employees who are proficient in speaking a foreign language and authorize the Finance Director to amend the salary schedule

C. Approve one-time bilingual pay stipends to avoid negative transition impacts

D. Authorize amendment of the Personnel Rules and Regulations to provide for vacation accrual during probationary period and cash-out of accrued vacation to probationary employees who separate from City service during probation

**9. Exclusive Negotiation Agreement with Habitat for Humanity Yuba/Sutter, Inc., for Property Located at 211 and 217 South Walton Avenue**

Adopt **Resolution 24-014** authorizing the Mayor to execute an Exclusive Negotiation Agreement with Habitat for Humanity Yuba/Sutter, Inc., for City-owned properties located at 211 and 217 South Walton Avenue

The motion was passed unanimously

[Item 10 was pulled from the Consent Calendar and moved to Business Items]

~~**10. Merriment Village Apartments - Homekey 3.0 Grant Application Submittal**~~

~~Action: Repeal Resolution No. 23-056 and adopt a Resolution authorizing a joint application with Habitat for Humanity Yuba/Sutter, Inc, to apply for Homekey 3.0 funds through~~

~~the State Department of Housing and Community Development for a 79-unit affordable housing project located at 428 North Walton Avenue, which is Phase 1 of the proposed 217-unit Merriment Village Apartments~~

**Business Items**

**10. Merriment Village Apartments - Homekey 3.0 Grant Application Submittal**

John Nicoletti spoke

Councilmember Kirchner moved and Councilmember Boomgaarden seconded the motion to:

Repeal Resolution No. 23-056 and adopt **Resolution 24-015** authorizing a joint application with Habitat for Humanity Yuba/Sutter, Inc, to apply for Homekey 3.0 funds through the State Department of Housing and Community Development for a 79-unit affordable housing project located at 428 North Walton Avenue, which is Phase 1 of the proposed 217-unit Merriment Village Apartments

The motion was passed unanimously

**11. Host Fee Agreement with Recycling Industries**

Scott Kuhnen spoke

Vice-Mayor Shaw moved and Councilmember Kirchner seconded the motion to:

Adopt **Resolution 24-016** to approve the proposed Host Fee Agreement between the City of Yuba City and Recycling Industries

The motion was passed unanimously

**12. City Welcome Sign – Ad Hoc Committee**

Jeff Stephens spoke

Establish and designate two (2) Councilmembers to steer the City Welcome Sign Ad Hoc Committee

Councilmembers Kirchner and Pasquale volunteered to serve on this committee

**13. Water Tower Plaza Name and Mural Designs - Ad Hoc Committee**

Sandee Drown spoke
David Reed spoke
Jeff Stephens spoke

Establish and designate two (2) Council members to facilitate the Water Tower Plaza Name and Mural Design Ad-Hoc Committee

Mayor Harris and Vice-Mayor Shaw volunteered to serve on this committee

**14. Fiscal Year 23/24 Public Safety Mid-Year Budget Adjustment**

Vice-Mayor Shaw moved and Councilmember Pasquale seconded the motion to:

Adopt **Resolution 24-017** authorizing the Finance Director to make a supplemental appropriations and related transfers for the items noted below:

Fire Department - $927,067 to account 2310-61430, utilizing projected salary savings within the General Fund, 100. Should this projected salary savings not materialize, authorize the Finance Director to transfer up to $975,067 from unallocated General Fund CIP

Police Department - Overspend accounts 2120-63601 and 2130- 62701 and offset with salary savings

The motion was passed unanimously

**15. Shanghai Garden Park Playground Replacement Project Award and Purchase**

Vice-Mayor Shaw moved and Councilmember Boomgaarden seconded the motion to:

Adopt **Resolution 24-018** which takes the following actions:

A. Adopts a CEQA Class 2 Categorical Exemption

B. Awards a construction contract to BCI Burke Company in the amount of $258,940.76 through Sourcewell Contract No. 010521- BUR, with the finding that it is in the best interest of the City

C. Authorizes the City Manager to execute all necessary documents related to the project

D. Authorizes the Finance Director to make the budget transfers necessary to fund the Shanghai Garden Park Playground Replacement Project

The motion was passed unanimously

**16. THIS ITEM WAS TIME CERTAIN AT 6:50 PM**

**Public Hearing No. 5 for Updating of City Councilmember District Boundaries for Annexed Property**

Mayor Harris opened a Public Hearing

No public comment

Mayor Harris closed the Public Hearing

Councilmember Pasquale moved and Vice-Mayor Shaw seconded the motion to accept staff's recommendation for the District Boundary Map

The motion was passed unanimously

**17. Adoption of updated District Boundaries to include property annexed into the City**

Councilmember Pasquale moved and Councilmember Kirchner seconded the motion to:

Introduce, by title only, an Ordinance of the City Council of the City of Yuba

City amending Section 2-9.05 of the Yuba City Municipal Code and adopting revised district boundaries, and waive the first reading

The motion was passed unanimously

**18. Community Sponsorship Request – Playzeum**

Mayor Harris moved and Councilmember Boomgaarden seconded the motion to:

Adopt **Resolution 24-019** approving the Playzeum request for an in-kind sponsorship estimated at $1,816.62 and a monetary sponsorship in the amount of $1000.00 for the Touch A Truck event

The motion was passed unanimously

## Future Agenda Items

**19. Future Agenda Items**

No suggestions were made

## Reports and Communications

**20. City Manager's Report**

**21. City Council Reports**

- Councilmember Boomgaarden
- Councilmember Kirchner
- Councilmember Pasquale
- Vice Mayor Shaw
- Mayor Harris

## Adjournment

Mayor Harris adjourned the Regular Meeting of the City Council at 7:35 PM

_____
Shon Harris, Mayor

ATTEST:

_____
Ciara Wakefield, Deputy City Clerk

Agenda Item **4**

CITY OF YUBA CITY
STAFF REPORT

**Date:** March 5, 2024
**To:** Honorable Mayor & Members of the City Council;
**From:** Administration Department
**Presentation By:** Diana Langley, City Manager

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**Summary**

**Subject:** Adoption of updated District Boundaries to include property annexed into the City

**Recommendation:** Adopt an Ordinance of the City Council of the City of Yuba City amending Section 2-9.05 of the Yuba City Municipal Code and adopting revised district boundaries; by title only and waive the second reading

**Fiscal Impact:** None

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**Purpose:**

The City Council has held five public hearings to receive public input on district boundaries to account for property annexed to the City and selected a preferred updated district boundary map. To complete this process, and to allow for members of the public residing in the annexed territory to participate in local elections, an ordinance is being adopted to update District boundaries.

**Council's Strategic Goal:**

Including recently annexed areas into the City Council District Boundaries addresses the City Council's overarching goal of quality of life.

**Background:**

Every 10 years, Election Code section 2160 requires cities with by-district election systems to redraw their district boundary maps to ensure compliance with the California and federal Voting Rights Acts. This process, called redistricting, ensures that all districts have a nearly equal population. The City adopted its current district boundaries in 2022 based on 2020 consensus data as required by law.

Since the adoption of the current boundary maps, there have been significant annexations in the southern portion of the City, adjacent to Council Districts 4 and 5. The annexed areas are currently predominantly agricultural land with several homes. While the areas are in the City, they are not within a Council district, thus the Council District Boundary Map must be modified to incorporate the annexed areas.

**Analysis:**

State laws set strict criteria for the update of the district boundaries in such circumstances. Specifically,

the City Council is required to add the new territory "to the nearest existing Council district" without changing the boundaries of other Council district boundaries. As a result, the City's discretion is limited regarding the present annexation.

Over the period of several months, the City held five public hearings to receive public comment as required by the Elections Code. The next step is to amend the City's Municipal Code to formally add the annexed territory. This is done by first introducing the ordinance, which was done on February 20th, and then approving the ordinance at a subsequent regular meeting of the Council. As Districts 4 and 5 are the "nearest existing Council districts" to the annexed property, the ordinance proposes to add the annexed territories to Districts 4 and 5 consistent with the mandatory requirements of State law.

**Fiscal Impact:**

There is no fiscal impact to modifying the boundaries other than staff time to prepare the necessary staff reports and modify the district boundary maps.

**Alternatives:**

Decline to adopt the Ordinance at this time or continue the matter to a future meeting.

**Recommendation:**

Adopt an Ordinance of the City Council of the City of Yuba City amending Section 2-9.05 of the Yuba City Municipal Code and adopting revised district boundaries; by title only and waive the second reading

**Attachments:**

1. Revised District Voting Ordinance(918364.1)
2. Exhibit A - City of Yuba City District Map

| Prepared By: | Submitted By: |
|---|---|
| Diana Langley | Diana Langley |
| City Manager | City Manager |

# ATTACHMENT 1

**ORDINANCE NO. ___**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY AMENDING SECTION 2-9.05 OF THE YUBA CITY MUNICIPAL CODE AND ADOPTING REVISED DISTRICT VOTING BOUNDARIES**

**WHEREAS**, on February 1, 2022, the City Council adopted Ordinance No. 004-22, adding Sections 2-9.04, 2-9.05, and 2-9.06 to Chapter 9, Title 2 of the City Municipal Code, changing the City from an at large to a by-district voting system; and

**WHEREAS**, with that Ordinance, the City adopted boundaries for the City's five voting districts, and established an implementation schedule for conversion to by-district voting during the 2022 and 2024 election cycles, with the sequence of elections being Districts 1, 2, and 3 in 2022 (and every four years thereafter), and Districts 4 and 5 in 2024 (and every four years thereafter); and

**WHEREAS**, the annexation of the territory known as "Newkom Ranch" into the City was approved by the Sutter County Local Agency Formation Commission ("LAFCO") on July 18, 2021 (LAFCO File No. 2021-0001), and became effective on August 10, 2021; and

**WHEREAS**, the annexation of the territory known as "Kells East Ranch" into the City was approved by LAFCO on January 13, 2022 (LAFCO File No. 2021-0005), and became effective on April 22, 2022; and

**WHEREAS**, the annexation of the territory known as "Bains" into the City was approved by LAFCO on January 13, 2022 (LAFCO File No. 2021-0003), and became effective on May 12, 2022; and

**WHEREAS**, the annexation of the territory known as "Kells West" into the City was approved by LAFCO on March 10, 2022 (LAFCO File No. 2022-0001), and became effective on May 12, 2022; and

**WHEREAS**, the annexation of the territory known as "Lincoln East South" into the City was approved by LAFCO on May 12, 2022 (LAFCO File No. 2022-0003A), and became effective on April 11, 2022; and

**WHEREAS,** the forgoing territories are referred to herein as "New Territory"; and

**WHEREAS**, pursuant to California Elections Code Section 21603(A), "[If] the boundaries of a city expand by the addition of new territory, including through annexation of unincorporated territory or consolidation with another city, the council shall add that new territory to the nearest existing council district without changing the boundaries of other council district boundaries"; and

**WHEREAS**, the territory for the Newkom Ranch annexation is adjacent to District 5, and

**WHEREAS**, the territories for the Bains, Kells East, Kells West, and Lincoln East South annexations are adjacent to District 4; and

**WHEREAS**, on November 7, 2023, at a regular City Council meeting, the City Council held a public hearing to receive public input regarding the annexation of the New Territory; and

**WHEREAS**, on December 19, 2023, the City held a public meeting in the form of a hearing to receive public input regarding the annexation of the New Territory; and

**WHEREAS**, on January 16, 2024, at a regular City Council meeting, the City Council held a public hearing regarding the proposed map for the annexation of the New Territory; and

**WHEREAS**, on February 6, 2024, at a regular City Council meeting, the City Council again held a public hearing to regarding the proposed map for the annexation of the New Territory; and

**WHEREAS**, on February 20, 2024, at a regular City Council meeting, the City Council held a public hearing regarding the proposed map annexation of the New Territory; and

**WHEREAS**, the City Council now desires to enact this Ordinance to annex the New Territory into election districts, with the Bains, Kells East, Kells West, and Lincoln East South territory annexed to District 4, and the Newkom Ranch annexation to District 5.

**NOW THEREFORE**, the City Council of the City of Yuba City does ordain as follows:

**SECTION 1.** The above recitals are hereby incorporated by reference.

**SECTION 2.** The district map attached hereto as Exhibit "A" is hereby adopted as the "City of Yuba City District Map" as codified in Section 2-9.05 of the City Municipal Code and incorporated therein by this reference.

**SECTION 3.** This Ordinance is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question would have a significant effect on the environment, the activity is not subject to CEQA.

**SECTION 4:** If any article, section, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Chapter. The Council hereby declares that it would have adopted this chapter and adopted each article, section, sentence, clause or phrase thereof, irrespective of the fact that any one or more articles, sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**SECTION 5:** This ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation.

Introduced and read at a regular meeting of the City Council of the City of Yuba City on the 20th day of February, 2024, and passed and adopted at a regular meeting held on the 5th day of March, 2024 .

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Shon Harris, Mayor
City of Yuba City

**ATTEST:**

_____
Ciara Wakefield, Deputy City Clerk

**APPROVED AS TO FORM:**

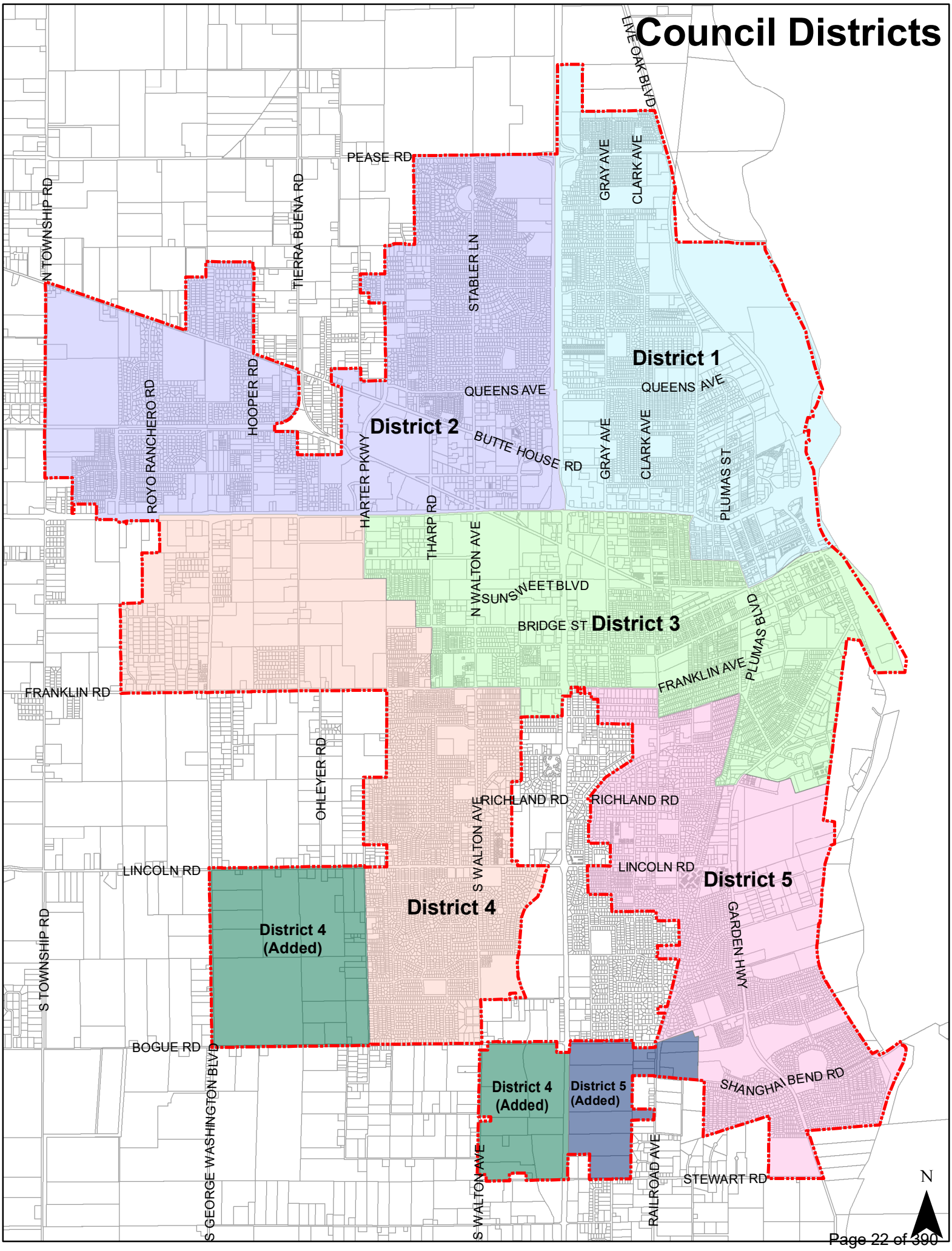
_____
Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

Exhibit "A": City of Yuba City District Map

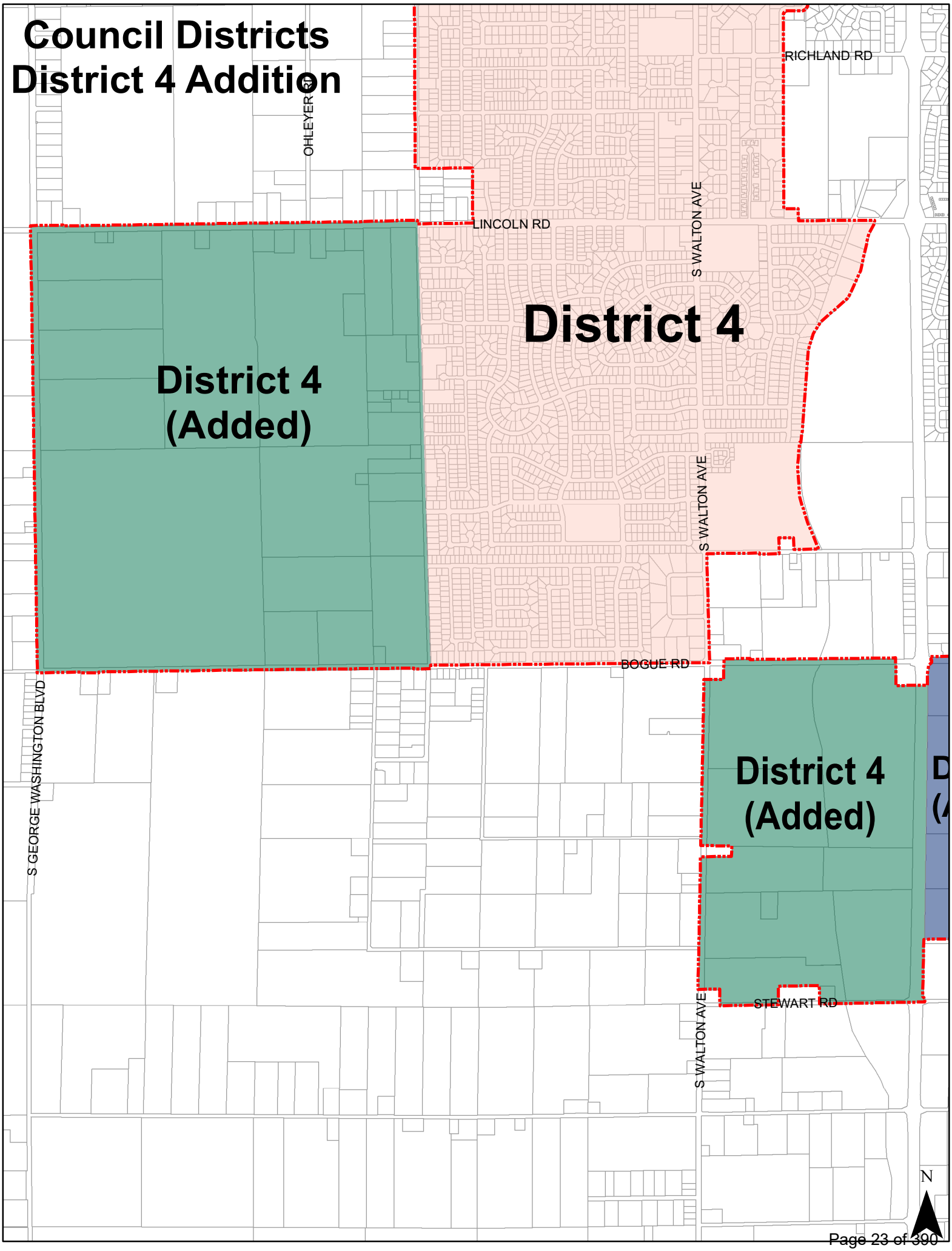
# EXHIBIT “A”

# City of Yuba City District Map

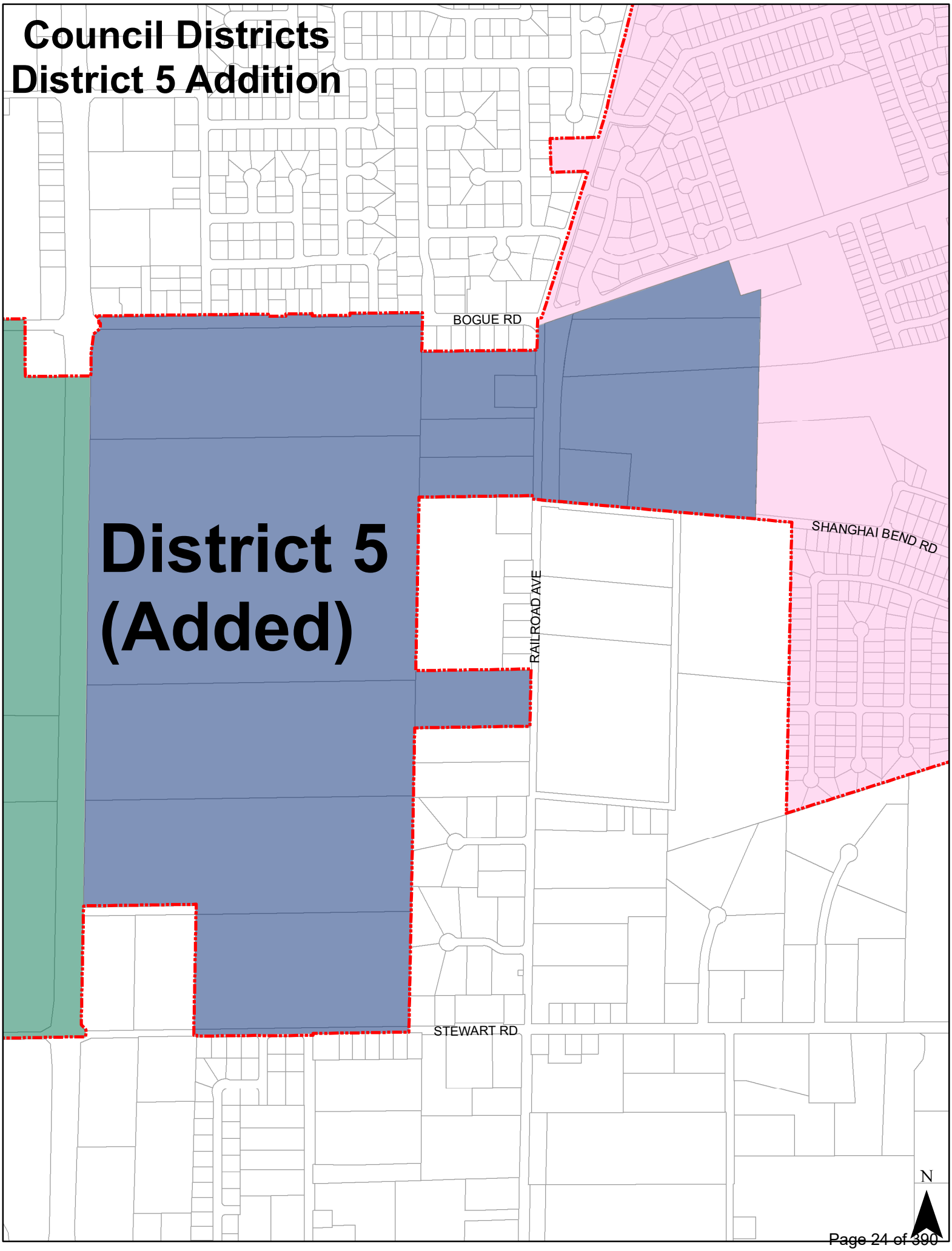
# Council Districts



# Council Districts
# District 4 Addition



# Council Districts
# District 5 Addition



Agenda Item **5**

CITY OF YUBA CITY
STAFF REPORT

**Date:** March 5, 2024
**To:** Honorable Mayor & Members of the City Council;
**From:** Administration Department
**Presentation By:** Diana Langley, City Manager

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**Summary**

**Subject:** Sale of 1488 Royo Ranchero Drive to Stewart Gibbs

**Recommendation:** Adopt a Resolution that:

A. Authorizes the City Manager to execute and Agreement for Purchase and Sale of Real Property located at 1488 Royo Ranchero Drive (APN 062-210-002), and all other necessary documents, in the amount of $18,000 to Stewart Gibbs, subject to approval of the City Attorney as to legal terms

B. Authorizes the Finance Director to place sale proceeds in the Water Fund

**Fiscal Impact:** Sale Price - $18,000 plus savings associated with no longer maintaining the property

---

**Purpose:**

To sell 1488 Royo Ranchero Drive which has been deemed a surplus property by the City Council.

**Council's Strategic Goal:**

This item supports the Council's goal of fiscal responsibility as the disposition of the property will generate funds to place in the Water Fund and reduce maintenance costs.

**Background:**

1488 Royo Ranchero Drive, located at the northwest corner of Royo Ranchero Road and Jefferson Avenue, is a former groundwater well site that was abandoned when the Tierra Buena area transitioned to surface water 20+ years ago. On September 1, 2020, City Council formally declared the property to be surplus and staff initiated the Surplus Land Act (SLA) process. Through the SLA process, no housing sponsors or developers submitted a letter of interest to purchase the property and the California Department of Housing and Community Development (HCD) cleared the property for sale.

**Analysis:**

1488 Royo Ranchero Drive is not currently developable as city sewer is currently available

approximately 500' to the south on Royo Ranchero Drive. The adjacent property owner, Stewart Gibbs, contacted staff and submitted a letter of interest to purchase the property. An appraisal was prepared by Owen & Associates, and the appraised value is $18,000. Mr. Gibbs agreed to purchase the property at the appraised value. The attached Agreement for Purchase and Sale details the terms of the transaction.

**Fiscal Impact:**

The sale price is $18,000 with net proceeds being slightly less due to title and escrow fees. Staff recommends that the proceeds be placed in the Water Fund as the site was originally purchased with Water Funds. In addition, the City will no longer be required to maintain the site.

**Alternatives:**

Do not sell the property and provide direction to staff.

**Recommendation:**

Adopt a Resolution that:

A. Authorizes the City Manager to execute and Agreement for Purchase and Sale of Real Property located at 1488 Royo Ranchero Drive (APN 062-210-002), and all other necessary documents, in the amount of $18,000 to Stewart Gibbs, subject to approval of the City Attorney as to legal terms.
B. Authorizes the Finance Director to place sale proceeds in the Water Fund.

**Attachments:**
1. Resolution - 1488 Royo Ranchero Drive
2. Exhibit A - Purchase and Sale Agreement - 1488 Royo Ranchero Drive

| Prepared By: | Submitted By: |
|---|---|
| Diana Langley | Diana Langley |
| City Manager | City Manager |

# ATTACHMENT 1

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY LOCATED AT 1488 ROYO RANCHERO DRIVE (APN 62-210-002), AND ALL OTHER NECESSARY DOCUMENTS, IN THE AMOUNT OF $18,000 TO STEWART GIBBS, AND AUTHORIZE THE FINANCE DIRECTOR TO PLACE SALE PROCEEDS IN THE WATER FUND**

WHEREAS, on September 1, 2020, the City Council declared 1488 Royo Ranchero Drive to be a surplus property; and

WHEREAS, in accordance with the Surplus Land Act, staff issued a notice of availability and did not receive any interest from any housing sponsors; and

WHEREAS, the Department of Housing and Community Development has determined that staff met all of the requirements under the Surplus Land Act and the Successor Housing Agency is permitted to proceed with the sale or lease of the property; and

WHEREAS, an appraisal was prepared by Owen & Associates and the appraised value is $18,000; and

WHEREAS, the adjacent property owner, Stewart Gibbs, submitted an offer to purchase the property at the appraised value; and

WHEREAS, staff recommends that the City Council accept the offer and authorize the City Manager to execute an Agreement for Purchase and Sale; and

WHEREAS, the site was originally purchased with Water Funds.

NOW, THEREFORE, the City Council of the City of Yuba City does hereby resolve as follows:

1. The City Manager is authorized to execute an Agreement for Purchase and Sale of Real Property located at 1488 Royo Ranchero Drive (APN 062-210-002), and all other necessary documents, in the amount of $18,000 to Stewart Gibbs.
2. The Finance Director is authorized to place sale proceeds in the Water Fund.

The forgoing Resolution of the City Council of the City of Yuba City was duly introduced, passed and adopted at a regular meeting thereof held on the 5th day of March, 2024.

AYES:

NOES:

ABSENT:

_____

Shon Harris, Mayor

ATTEST:

_____
Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY

_____
Shannon Chaffin
City Attorney

Exhibit A: Purchase and Sale Agreement

# Exhibit A

**AGREEMENT FOR PURCHASE AND SALE**
**OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS ("**Agreement**") is made this 5th day of March, 2024 ("**Agreement Date**") by and among Stewart Gibbs (the "**Buyer**"), City of Yuba City, a public agency ("**Seller**") and OLD REPUBLIC TITLE COMPANY, a corporation ("**Escrow Holder**" and "**Title Company**").

**R E C I T A L S:**

A. Seller owns that certain residential real property located at 1488 Royo Ranchero Dirve in Yuba City, State of California (APN 062-210-002) legally described as set forth on **Exhibit A** ("**Property**").

B. Buyer is willing to purchase the Property in AS-IS condition pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and incorporating the recitals above, the parties hereto agree as follows:

**TERMS AND CONDITIONS:**

**1. PURCHASE AND SALE OF PROPERTY.** Buyer hereby agrees to purchase from Seller, and Seller agrees to sell to Buyer, the Property in AS-IS condition.

**2. OPENING OF ESCROW.** Within five (5) days after the execution of this Agreement by both Buyer and Seller, the parties shall open an escrow ("**Escrow**") with Old Republic Title Company (Escrow Holder) by causing an executed copy of this Agreement to be deposited with Jayne Silveira, escrow officer ("**Escrow Officer**") at Old Republic Title Company, 855 Harter Parkway, Suite 130, Yuba City Jsilveira@ortc.com (530) 673-8841 ("**Escrow**") together with the Deposit (as defined in Section 3.2(a)) ("**Opening of Escrow**").

**3. PURCHASE PRICE.**

**3.1** ***Purchase Price.*** The Purchase Price for the Property is Eighteen Thousand Dollars ($18,000) ("**Purchase Price**").

**3.2** ***Payment of Purchase Price.*** The Purchase Price shall be paid as follows:

(a) ***Deposit.*** At Opening of Escrow, Buyer shall deposit the sum of One Thousand Dollars ($1,000) with Escrow Holder ("**Deposit**").

(b) ***Balance of Funds***. At least one (1) business day prior to the Closing, Buyer shall deposit balance of the Purchase Price with Escrow Holder in Good Funds (as defined below).

**3.3** ***Disbursement of Seller's Net Proceeds.*** At the Closing, the net proceeds (as

determined by the Seller settlement statement) shall be disbursed to Seller.

**3.4** ***Good Funds.*** All funds deposited in Escrow shall be in "**Good Funds**" which means a wire transfer of funds, cashier's or certified check drawn on or issued by the offices of a financial institution located in the State of California.

## 4. ADDITIONAL FUNDS AND DOCUMENTS REQUIRED FROM BUYER AND SELLER.

**4.1** ***Seller.*** Seller agrees that on or before 12:00 noon on the day preceding the Closing Date, Seller will deposit with Escrow Holder such funds and other items and instruments (executed and acknowledged, if appropriate) as may be necessary in order for the Escrow Holder to comply with this Agreement, including without limitation:

a. Executed and acknowledged grant deed in the form of Exhibit B ("**Grant Deed**").

b. A Non-Foreign Affidavit as required by federal law.

c. Such funds and other items and instruments as may be necessary in order for Escrow Holder and the Title Company to comply with this Agreement.

d. Executed and acknowledged Deed Restriction in the form of Exhibit C (**"Deed Restriction")**.

**4.2** ***Buyer.*** Buyer agrees that on or before 12:00 noon on the date preceding the Closing Date, Buyer will deposit with Escrow Holder all additional funds and/or documents (executed and acknowledged, if appropriate) which are necessary to comply with the terms of this Agreement, including without limitation:

a. A Preliminary Change of Ownership Statement completed in the manner required in Sutter County.

b. Such funds and other items and instruments as may be necessary in order for Escrow Holder and the Title Company to comply with this Agreement.

**4.3** ***Recordation, Completion and Distribution of Documents***. Escrow Holder will cause Grant Deed and Deed Restriction to be recorded when it can issue the Owner's Title Policy in accordance with Section 6, and holds for the account of Buyer and Seller, respectively, the funds and items described above to be delivered to Buyer and Seller, respectively, through Escrow, less costs, expenses and disbursements chargeable to Seller pursuant to the terms hereof.

## 5. CLOSING DATE; TIME IS OF ESSENCE.

**5.1 Closing Date.** Escrow shall close within ten (10) days after Buyer has provided the Buyer's Due Diligence Approval Notice by the Outside Due Diligence Date (pursuant to Section 7), but no later than thirty (30) days after the Opening of Escrow ("**Closing Date**") unless extended as evidenced by a writing signed by both parties. The terms "**Close of Escrow**" and/or "**Closing**" are used herein to mean the time Grant Deed is filed for recording by the Escrow Holder in the Office of the County Recorder of Sutter County, California.

**5.2 Possession.** Upon the Close of Escrow, exclusive possession and occupancy of

the Property shall be delivered to Buyer free and clear of all claims of possession and all debris.

**5.3 Time is of Essence.** Buyer and Seller specifically agree that time is of the essence.

**5.4 City Manager's Authority.** Seller by its execution of this Agreement hereby agrees that its City Manager or designee (who has been designated by City Manager's written notice delivered to Buyer and Escrow Holder) shall, in City Manager's sole and exclusive discretion, have authority:

(i) to execute documents on behalf of Seller including, but not limited to, issuing approvals, disapprovals and extensions. Any such approval, disapproval or extension executed by the City Manager or their designee shall be binding on Seller.

(ii) make minor modifications to this Agreement in order to fulfill the direction of the City Council, provided that such minor modifications are approved by the City Attorney.

## 6. TITLE POLICY.

### 6.1 *Approval of Title.*

(a) Promptly following execution of this Agreement but in no event later than five (5) days following Opening of Escrow, a preliminary title report shall be issued by Placer Title Company ("**Title Company**"), describing the state of title of the Property, together with copies of all exceptions specified therein and a map plotting all easements specified therein ("**Preliminary Title Report**"). Within five (5) days after Buyer's receipt of the Preliminary Title Report, Buyer shall notify Seller in writing ("**Buyer's Title Notice**") of Buyer's disapproval of any matters contained in the Preliminary Title Report ("**Disapproved Exceptions**").

(b) In the event Buyer delivers Buyer's Title Notice within said period, Seller shall have a period of five (5) days after receipt of Buyer's Title Notice in which to notify Buyer of Seller's election to either (i) agree to attempt to remove the Disapproved Exceptions prior to the Close of Escrow; or (ii) decline to remove any such Disapproved Exceptions ("**Seller's Notice**"). If Seller notifies Buyer of its election to decline to remove the Disapproved Exceptions, or if Seller is unable to remove the Disapproved Exceptions, Buyer may elect either to terminate this Agreement and the Escrow or to accept title to the Property subject to the Disapproved Exception(s). Buyer shall exercise such election by delivery of written notice to Seller and Escrow Holder within five (5) days following the earlier of (i) the date of written advice from Seller that such Disapproved Exception(s) cannot be removed; or (ii) the date Seller declines to remove such Disapproved Exception(s).

(c) Upon the issuance of any amendment or supplement to the Preliminary Title Report which adds additional exceptions, the foregoing right of review and approval shall also apply to said amendment or supplement, provided, however, that Buyer's initial period of review and approval or disapproval of any such additional exceptions shall be limited to ten (10) days following receipt of notice of such additional exceptions.

(d) Nothing to the contrary herein withstanding, Buyer shall be deemed to have automatically objected to all leases, deeds of trust, mortgages, judgment liens, federal and state income tax liens, delinquent general and special real property taxes and assessments and

similar monetary encumbrances affecting the Property, and Seller shall discharge any such non-permitted title matter of record prior to or concurrently with the Close of Escrow.

**6.2** ***Title Policy*****.** At the Close of Escrow, Escrow Holder shall furnish Buyer with an ALTA/CLTA Homeowner's Owner's Policy of title insurance ("**Owner's Title Policy**") insuring title to the Property vested in Buyer in the amount of the Purchase Price, containing only exceptions approved or waived by Buyer in accordance with this Section. The cost of the Owner's Title Policy to Seller shall be paid by Buyer.

## 7. TRANSFER DISCLOSURE STATEMENT, STATUTORY DISCLOSURES & DUE DILIGENCE.

**7.1** **Transfer Disclosure Statement.** Within two (2) days after the Opening of Escrow, Seller shall provide a completed and executed Transfer Disclosure Statement (as specified in Civil Code Section 1102) ("**TDS**") for Buyer's review and approval. If Buyer disapproves the completed TDS, Buyer shall notify Seller with a copy to Escrow Holder within the Due Diligence Period (as defined in Section 7.6). If Buyer does not disapprove the TDS within the Due Diligence Period, Buyer shall be deemed to have approved it. Buyer and any Buyer's agent shall execute the TDS and deliver a copy to Seller.

**7.2** **Natural Hazard Disclosure Report with Tax Disclosures.** Within two (2) days after the Opening of Escrow, Escrow Holder shall order and deliver to Buyer a comprehensive natural hazard disclosure and tax report from Disclosure Source ("**NHD Report**") for Buyer's review and approval. If Buyer disapproves the NHD Report, Buyer shall notify Seller with a copy to Escrow Holder within the Due Diligence Period. If Buyer does not disapprove the NHD Report within the Due Diligence Period, Buyer shall be deemed to have approved it. Buyer shall execute the acknowledgement statement that accompanies the NHD Report and deliver a copy to Seller.

**7.3** **Lead-Based Paint Disclosures**. Within two (2) days of Opening of Escrow, Seller shall deliver to Buyer the statutory Lead-Based Paint Disclosure and pamphlet as required by federal law ("**Lead Paint Disclosure**") for Buyer's review and approval. If Buyer disapproves the Lead Paint Disclosure, Buyer shall notify Seller with a copy to Escrow Holder within the Due Diligence Period. If Buyer does not disapprove the Lead Paint Disclosure within the Due Diligence Period, Buyer shall be deemed to have approved it. Waiver of the Lead Paint Disclosure is prohibited by law. Buyer shall execute the Lead Paint Disclosure and deliver same to Seller.

**7.4** **Material Facts & Insurance Claims**. Within two (2) days of the Opening of Escrow, Seller shall disclose to Buyer in writing all known material facts and defects including known insurance claims within the last five (5) years preceding the Agreement Date

**7.5** **Other Statutory Disclosures**. Within two (2) days of Opening of Escrow, Seller shall deliver to Buyer all other applicable statutory disclosures (including, but not limited to, notice or actual knowledge of release of illegal controlled substance, etc.) as required by law for Buyer's review and approval. If Buyer disapproves any such disclosures, Buyer shall notify Seller with a copy to Escrow Holder within the Due Diligence Period. If Buyer does not disapprove a statutory disclosure within the Due Diligence Period, Buyer shall be deemed to have approved it and Buyer shall execute any documents reasonably required by Seller to evidence same and deliver same to Seller.

**7.6** **Due Diligence.** For a period of up to thirty (30) days following the Opening of Escrow ("**Due Diligence Period**"), Buyer shall have the right to review and inspect the Property and conduct such tests as reasonably determined by Buyer. Buyer shall use reasonable efforts to expediate any and all investigations provide same does not involve additional cost to Seller. Seller grants to Buyer, its agents and employees, upon reasonable notice to Seller, a limited license to enter the Property for the purpose of conducting such due diligence as reasonably required by Buyer at Buyer's sole cost and expense. As a condition to Buyer's entry and inspection, Buyer shall keep the Property free and clear of all materialmen's liens, lis pendens or any other liens arising out of the entry and any work performed under this Agreement. Buyer shall notify Seller in writing ("**Buyer's Due Diligence Notice**") on or before the expiration of the Due Diligence Period of Buyer's approval of the condition of the Property as well as the TDS, NHD Report, Lead Paint Disclosure and all other disclosures and notices delivered to Buyer under this Agreement, which approval may be withheld in Buyer's sole discretion. Failure of Seller to provide access to the Property to inspect the Property at a day and time requested by Buyer shall be a material breach of this Agreement and Buyer shall have the right to immediately terminate this Agreement and the escrow.

**7.7** **Indemnity:** Buyer agrees to defend and indemnify Seller for any claims that arise out of Buyer's inspection or testing of the Property.

**7.8** **Statutory Disclosures.** As required by law, Seller makes the following disclosures to Buyer:

**a.** **No HOA.** The Property is subject to certain covenants, conditions and restrictions. However, there is no homeowner association and there are no HOA assessments to which the Property is subject.

b. **Megan's Law**. "Notice: Pursuant to Section 290.46 of the Penal Code information about specified registered sex offenders is made available to the public via an internet website maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on a sex offender's criminal history, this information will include either an address at which the offender resides or the community of residence and ZIP code in which he or she resides. (Neither Seller or Broker are required to check this website)."

c. **Gas and Hazardous Liquid Transmission Pipelines**. "This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public at the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at www.npms.phmsa.dot.gov. To seek further information about possible transmission lines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP code and county on the NPMS Internet Web site."

## 8. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.

**8.1** ***Conditions to Buyer's Obligations.*** The obligations of Buyer under this Agreement are subject to the satisfaction or written waiver, in whole or in part, by Buyer of each of the following conditions precedent ("**Buyer's Conditions Precedent**"):

(a) Title Company will issue the Owner's Title Policy as specified in Section 6.2.

(b) Escrow Holder holds and will deliver to Buyer the instruments accruing to Buyer pursuant to this Agreement.

(c) Seller is not in default of its obligations under this Agreement.

**8.2** ***Conditions to Seller's Obligations*****.** The obligations of Seller under this Agreement are subject to the satisfaction or written waiver, in whole or in part, by Seller of the following conditions precedent:

(a) Escrow Holder holds and will deliver to Seller the instruments and funds accruing to Seller pursuant to this Agreement.

(b) Buyer shall have executed all documents required under this Agreement and delivered same to Seller.

(c) Buyer is not in default of its obligations under this Agreement.

## 9. LIMITED REPRESENTATIONS AND WARRANTIES.

**9.1** ***Limited Representations and Warranties*****.** Seller hereby makes the following representations and warranties to Buyer to the best of its knowledge and without the duty to investigate, each of which is true in all respects as of the Agreement Date and the Opening of Escrow and shall be true in all respects on the date of Close of Escrow on the Property:

**a.** Seller has received no notice and/or has no knowledge that any governmental authority or any employee or agent thereof considers the present or proposed operation, use or ownership of the Property to violate or have violated any ordinance, rule, law, regulation or order of any government or agency, body or subdivision thereof, or that any investigation has been commenced or is contemplated respecting such possible violations.

**b.** There are no pending or threatened lawsuits or claims which would affect the Property.

**c.** The Property is not subject to a homeowner's association nor any such association assessments.

**d.** The Property is not in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under or about the Property including, but not limited to, soil and ground water conditions.

**e.** Seller has received no written notice from any third parties, prior owners of the Property, or any federal, state or local governmental agency indicating that any hazardous waste remedial or clean-up work will be required on the Property. There are no environmental, health or safety hazards on, under or about the Property, including but not limited to soil and groundwater conditions.

**f.** There are no contracts, leases, claims or rights affecting the Property and no agreements entered into by or under Seller that shall survive the Close of Escrow.

**g.** Until the Closing, Seller shall not do anything which would impair Seller's title to any of the Property.

**h.** Seller is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 or an out-of-state seller under California Revenue and Tax Code Section 18805 and that it will deliver to Buyer through Escrow a non-foreign affidavit on Escrow Holder's standard form pursuant to Internal Revenue Code Section 1445(b)(2) and the Regulations promulgated thereunder and a California Form 590-RE ("Non-foreign Affidavit").

**i.** Until the Closing, if Seller learns of any fact or condition which would cause any of the warranties and representations in this Section not to be true as of the Closing, Seller shall immediately give written notice of such fact or condition to Buyer.

**j.** No construction or repair work has been done on the Property within the six (6) months prior to the Opening of Escrow.

**9.2** ***Breach; Indemnification.*** If a breach of a representation, warranty or covenants occurs before Closing and Buyer is aware that such a breach has occurred, the breach shall be grounds to terminate this Agreement in Buyer's sole discretion. If Buyer does not elect to terminate this Agreement, Buyer shall be deemed to have waived any such breach.

## 10. ESCROW PROVISIONS.

**10.1** ***Escrow Instructions*****.** Sections 1; 2 through 6 inclusive, 8, 10, 12 and 13 constitute the escrow instructions to Escrow Holder. If required by Escrow Holder, Buyer and Seller agree to execute Escrow Holder's standard escrow instructions, provided that the same are consistent with and do not conflict with the provisions of this Agreement. In the event of any such conflict, the provisions of this Agreement shall prevail. The terms and conditions in sections of this Agreement not specifically referenced above are additional matters for information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions directly from Escrow Holder and will execute such provision upon Escrow Holder's request. To the extent that the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller agree to execute additional instructions, documents and forms provide by Escrow Holder that are reasonably necessary to close Escrow.

**10.2** ***General Escrow Provisions*****.** Escrow Holder shall deliver the Owner's Title Policy to Buyer and instruct the Sutter County Recorder to mail the Grant Deed to Buyer at the address set forth in Section 12 after recordation. All funds received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Holder with any bank doing business in Sutter County, California, and may be disbursed to any other general escrow account or accounts. All disbursements shall be according to that party's instructions.

**10.3 Utilities.** Buyer and Seller shall cause all utilities which are in the name of Seller to be transferred to the name of Buyer as of the Close of Escrow or as soon thereafter as practicable. Utilities shall be prorated to the Close of Escrow. In the event final amounts with respect to said prorations are not available as of Close of Escrow, the proration shall be done on an estimated basis and the parties shall prepare a final proration within sixty (60) days following Close of Escrow. Any party who is obligated to pay net amounts based on said final

proration shall reimburse the other party said amount within thirty (30) days after completion of the final proration.

**10.4** ***Real Property Taxes*****.** Seller is a public agency and exempt from real property taxes so no prorations will be required at Closing.

**10.5** ***Payment of Costs*****.**

**a.** ***Cost Allocation*****.** Buyer shall pay the costs for the Owner's Title Policy, one-half of escrow costs and recording fees ("**Buyer's Charges**"). Seller shall pay the cost of the NHD Report, documentary transfer taxes, one-half of the escrow costs and any fees and costs charged by any lender to obtain releases or consents or otherwise put title in the condition described in Section 6 ("**Seller's Charges**"). All other costs of Escrow not otherwise specifically allocated by this Agreement shall be apportioned between the parties in a manner consistent with the custom and usage of Escrow Holder.

**b.** ***Closing Statement*****.** At least three (3) business days prior to the Closing Date, Escrow Holder shall furnish Buyer and Seller with a preliminary Escrow closing statement which shall include each party's respective shares of costs. The preliminary closing statement shall be approved in writing by the parties. As soon as reasonably possible following the Close of Escrow, Escrow Holder shall deliver a copy of the final Escrow closing statement to the Parties.

**10.6** ***Termination and Cancellation of Escrow*****.** If Escrow fails to close as provided above, either party may elect to cancel this Escrow upon written notice to the other party and Escrow Holder. Upon cancellation, Escrow Holder is instructed to return all funds and documents then in Escrow to the respective depositor of the same with Escrow Holder. Cancellation of Escrow, as provided herein, shall be without prejudice to whatever legal rights Buyer or Seller may have against each other arising from the Escrow or this Agreement.

**10.7** ***Information Report***. Escrow Holder shall file and Buyer and Seller agree to cooperate with Escrow Holder and with each other in completing any report ("**Information Report**") and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code § 6045(e) regarding the real estate sales transaction contemplated by this Agreement, including without limitation, Internal Revenue Service Form 1099-B as such may be hereinafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereinafter promulgated by the Treasury Department with respect thereto. Buyer and Seller also agree that Buyer and Seller, their respective employees and attorneys, and escrow Holder and its employees, may disclose to the Internal Revenue Service, whether pursuant to such Information Report or otherwise, any information regarding this Agreement or the transactions contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045(e), and further agree that neither Buyer nor Seller shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information.

**10.8** ***No Withholding as Foreign Seller*****.** Seller represents and warrants to Buyer that Seller is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code § 1445 or an out-of-state seller under California Revenue and Tax Code § 18805 and that it will deliver to Buyer on or before the Close of Escrow a non-foreign affidavit

on Escrow Holder's standard form pursuant to Internal Revenue Code §1445(b)(2) and the Regulations promulgated thereunder and a California Form 590-RE.

**10.9** ***Brokerage Commissions*****.** Neither party is represented by a broker**.** Buyer and Seller each agree to indemnify and hold the other parties harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee except as specified above.

**11. LIQUIDATED DAMAGES.**

**IF BUYER SHOULD MATERIALLY DEFAULT UNDER THIS AGREEMENT, BUYER AND SELLER AGREE THAT SELLER WILL INCUR DAMAGES BY REASON OF SUCH DEFAULT WHICH DAMAGES SHALL BE IMPRACTICAL AND EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO ASCERTAIN. THEREFORE, BUYER AND SELLER, IN A REASONABLE EFFORT TO ASCERTAIN WHAT SELLER'S DAMAGES WOULD BE IN THE EVENT OF SUCH DEFAULT BY BUYER HAVE AGREED BY PLACING THEIR INITIALS BELOW THAT THE DEPOSIT SHALL CONSTITUTE A REASONABLE ESTIMATE OF SELLER'S DAMAGES UNDER THE PROVISIONS OF SECTIONS 1671 AND 1677 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE FOR A BREACH PRIOR TO THE CLOSING. IF BUYER FAILS TO PROMPTLY DELIVER THE SUM SPECIFIED ABOVE TO SELLER, SUCH FAILURE SHALL CONSTITUTE A MATERIAL BREACH OF THIS PROVISION AND SELLER MAY ELECT TO SUE BUYER UNDER THIS PROVISION OR TO WAIVE THIS PROVISION AND PROCEED AGAINST BUYER FOR ALL APPLICABLE DAMAGES RESULTING FROM BUYER'S DEFAULT.**

| _____ | _____ |
|---|---|
| **Seller's Initials** | **Buyer's Initials** |

**12. NOTICES.** Any notices, demands or communications under this Agreement between the parties shall be in writing, and may be given by (i) personal service, (ii) overnight delivery, or (iii) mailing via United States mail, certified mail, postage prepaid, return receipt requested ("**US Mail**"), addressed to each party as set forth below or such other address as may be furnished in writing by a party, and such notice or communication shall, if properly addressed, be deemed to have been given (a) as of the date so delivered under delivery methods (i) or (ii) above, or (b) three (3) business days after deposit into the U.S. Mail.

| | |
|---|---|
| **To Seller:** | City of Yuba City<br>1201 Civic Center Boulevard<br>Yuba City, CA 95993<br>Attn: Diana Langley, City Manager |
| **With a Copy to:** | Aleshire & Wynder, LLP<br>2440 Tulare Street Suite 410<br>Fresno, CA 93721<br>Attn: Shannon Chaffin, City Attorney |
| **To Buyer:** | Stewart Gibbs<br>3389 Jefferson Avenue<br>Yuba City, CA 95993 |

**To Escrow Holder:** Old Republic Title Company
855 Harter Parkway, Suite 130
Yuba City, CA 95993
Jayne Silveira, Escrow Officer

## 13. GENERAL PROVISIONS.

**13.1** ***Assignment.*** Neither party shall have the right to assign this Agreement or any interest or right hereunder or under the Escrow without the prior written consent of the other party. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, personal representatives, successors and assigns.

**13.2** ***Attorney's Fees.*** In any action between the parties hereto, seeking enforcement of any of the terms and provisions of this Agreement or the Escrow, or in connection with the Property, the prevailing party in such action shall be entitled, to have and to recover from the other party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding, in addition to its recoverable court costs.

**13.3** ***Interpretation; Governing Law.*** This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

**13.4** ***No Waiver.*** No delay or omission by either party in exercising any right or power accruing upon the compliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

**13.5** ***Modifications.*** Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each party hereto.

**13.6** ***Severability.*** If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provisions, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**13.7** ***Merger.*** This Agreement and other documents incorporated herein by reference contain the entire understanding between the parties relating to the transaction contemplated hereby and all prior to contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

**13.8** ***Execution in Counterparts.*** This Agreement may be executed in several

counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

**13.9** ***Exhibits.*** Exhibits A, B, and C are attached hereto are incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Purchase and Sale of Real Property and Escrow Instructions as of the date set forth above.

**Note: Section 11 need to be separately initialed by the parties.**

**BUYER:**

_____
Stewart Gibbs

**Accepted and agreed to:**

**ESCROW HOLDER:**

OLD REPUBLIC TITLE

By: _____
Jayne Silveira, Escrow Officer

Dated: _____, 2024

**SELLER:**

CITY OF YUBA CITY

By: _____
Diana Langley, City Manager

_____, 2024

ATTEST:

_____
Jackie Sillman, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Shannon Chaffin, City Attorney

## EXHIBIT A

## LEGAL DESCRIPTION OF THE PROPERTY

That certain real property in the City of Yuba City, County of Sutter, State of California legally described as follows:

LOT 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED, “RANCHO DE ROYO UNIT TWO”, FILED JULY 28, 1989 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SUTTER, STATE OF CALIFORNIA IN BOOK 13 OF SURVEYS, AT PAGE 105.

APN: 062-210-002

**EXHIBIT B**
**GRANT DEED**

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Stewart Gibbs
3389 Jefferson Avenue
Yuba City, CA 95993

APN 062-210-002-000
THE UNDERSIGNED GRANTOR DECLARES:
Documentary Transfer Tax is: $___

(Space Above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code §6103)

**GRANT DEED**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, CITY OF YUBA CITY, a public agency ("**Grantor**"), hereby grants to Stewart Gibbs as _____ ("**Grantee**"), that certain real property in the City of Yuba City, County of Sutter, State of California, legally described on Exhibit A attached hereto and incorporated herein by reference ("**Property**").

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on its behalf by its respective officers or agents hereunto as of the date below.

**GRANTOR:**

CITY OF YUBA CITY, a public agency

DATED: _____, 2024

Not to be executed until closing

By: _____
Diana Langley,
City Manager

ATTEST:

_____
Jackie Sillman, City Clerk

## EXHIBIT A TO GRANT DEED

## LEGAL DESCRIPTION OF PROPERTY

That certain real property in the City of Yuba City, County of Sutter, State of California legally described as follows:

LOT 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED, “RANCHO DE ROYO UNIT TWO”, FILED JULY 28, 1989 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SUTTER, STATE OF CALIFORNIA IN BOOK 13 OF SURVEYS, AT PAGE 105.

APN: 062-210-002

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA )
) ss.
COUNTY OF _____ )

On _____, 2024 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

**EXHIBIT C**
**DEED RESTRICTION**

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Yuba City
1201 Civic Center Boulevard
Yuba City, CA 95993
Attn: City Manager

APN 062-210-002-000
THE UNDERSIGNED GRANTOR DECLARES:
Documentary Transfer Tax is: $___

(Space Above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code §6103)

**DEED RESTRICTION**

If ten (10) or more residential units are developed on the Property, not less than 15 percent of the total number of residential units developed on the property shall be sold or rented at affordable housing cost, as defined in Section 50052.5 of the California Health and Safety Code, or affordable rent, as defined in Section 50053 of the California Health and Safety Code, to lower income households, as defined in Section 50079.5 of the California Health and Safety Code. Rental units shall remain affordable to and occupied by lower income households for a period of 55 years for rental housing and 45 years for ownership housing. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision © of 65915 of the California Government Code. These requirements shall be covenants or restrictions running with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor-in-interest who continues the violation by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5 of the California Government Code.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on its behalf by its respective officers or agents hereunto as of the date below.

**GRANTOR:**

CITY OF YUBA CITY, a public agency

DATED: _____, 2024

Not to be executed until closing

By: _____
Diana Langley
City Manager

ATTEST:

_____
Jackie Sillman, City Clerk

## EXHIBIT A TO DEED RESTRICTION

## LEGAL DESCRIPTION OF PROPERTY

That certain real property in the City of Yuba City, County of Sutter, State of California legally described as follows:

LOT 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED, “RANCHO DE ROYO UNIT TWO”, FILED JULY 28, 1989 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SUTTER, STATE OF CALIFORNIA IN BOOK 13 OF SURVEYS, AT PAGE 105.

APN: 062-210-002

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA )
) ss.
COUNTY OF _____ )

On _____, 2024 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

CITY OF YUBA CITY
STAFF REPORT

**Date:** March 5, 2024
**To:** Honorable Mayor & Members of the City Council;
**From:** Council and Board
**Presentation By:** Shon Harris

---

**Summary**

**Subject:** Appointments to the City of Yuba City Parks & Recreation and Senior Commissions

**Recommendation:** Approve the Recommendations for the appointment of one (1) new member to the Parks & Recreation Commission and the reappointment of two (2) members to the Senior Commission

**Fiscal Impact:** None

---

**Purpose:**

To fill current and anticipated vacancies on the Yuba City Parks & Recreation and Senior Commissions.

**Background:**

The application and selection process for the Parks & Recreation and Senior Commissions is complete. The following appointments are recommended:

| Commission | Name | Term Ending |
|---|---|---|
| Parks & Recreation | Pawandeep Rai | 02/27/25 |
| Senior Commission | Anthony Kurlan (Incumbent) | 02/27/28 |
| Senior Commission | Tanna Thomas (Incumbent) | 02/27/28 |

*Note: The appointment of Pawandeep Rai is contingent on the successful completion of background screening.

**Fiscal Impact:**
None

**Recommendation:**

Approve the appointment of Pawandeep Rai to the Parks & Recreation Commission and the re-appointment of Anthony Kurlan and Tanna Thomas to the Senior Commission.

**Attachments:**

1. Pawandeep Rai - Parks & Rec Application 02.05.24_Redacted
2. T Kurlan - Senior Commission Application 01.22.24_Redacted
3. T Thomas Senior Commission Application_Redacted

| Prepared By: | Submitted By: |
| --- | --- |
| Ciara Wakefield | Diana Langley |
| City Clerk Administrator | City Manager |

# ATTACHMENT 1

# CITY OF YUBA CITY

## APPLICATION FOR CITY BOARDS AND COMMISSIONS

APPLICATION FOR APPOINTMENT TO:

## PARKS AND RECREATION COMMISSION

Name: _____

Address/Zip: _____[redacted]_____

_____

Phone: _____[redacted]_____

E-mail: _____[redacted]_____

Occupation: _____

Resident of the City of Yuba City: YES ☐ NO ☐

If appointed, will you be able to attend meetings regularly and devote the time necessary to fulfill your duties as a member of the Commission?

YES ☐ NO ☐

**Please Complete the Attached Supplemental Questionnaire**

***Return completed application to:***

City Clerk's Office
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

Or email: cityclerk@yubacity.net

**APPLICATION DEADLINE: FEBRUARY 5, 2024 at 5:00PM**

# Boards & Commissions
## SUPPLEMENTAL QUESTIONNAIRE

Thank you for your interest in serving our community. So that we can get to know you better, please complete the following supplemental questionnaire. This information will help us select the Board Members/Commissioners that will best represent our City and our residents.

*Separate pages may be attached if additional space is needed. Only complete questionnaires will be considered.*

1. Why do you wish to serve as a member of this Commission?

2. What education, training, or background experience do you have that might be help to you for this position? (You may attach a brief resume if you wish.)

3. Are you willing to participate in necessary training, education and development activities to improve your effectiveness on the board?

4. Do you have any personal or professional interests having the potential to result in financial or material gain for yourself or your immediate family which would present an actual conflict of interest or the appearance of a conflict of interest with the duties of a commissioner or board member on a regular or frequent basis? If so, please describe:

5. Describe your involvement with the Yuba-Sutter Community including any community service.

6. Can you attend meetings regularly, making them a priority for the duration of your appointment?

7. Is your schedule flexible to allow for occasional special meetings? If not, please explain.

8. Have you participated in local government as a committee member, commissioner, councilmember, or staff? What was your role and what did you learn from it?

9. Do you anticipate residing in Yuba City for the next four years, or would there be any reasonable possibility of relocating out of the area for business or personal reasons in the foreseeable future?

10. Approximately how many City Council, Planning Commission, or other City meetings have you attended in the last three years?

11. In your opinion, what is the purpose of the board or commission for which you are seeking appointment?

12. What do you perceive to be the primary issue facing our community now and over the next 5 years? Have you any ideas of how we can approach solutions to these issues?

13. Is there any additional information you would like to share about yourself or your qualifications for this position?

Additional information:

- If appointed, you may need to complete an FPPC Conflict of Interest Form 700
- You may also be subject to DOJ LiveScan (fingerprinting) and background check
- If appointed, the City will provide orientation and opportunities for training including any training required by State law.

Acknowledgement:

I declare under the penalty of perjury that I am a registered voter with a legal residence or domicile within the City of Yuba City. I also acknowledge and agree that the appointment to fill a vacancy on City Boards and Commissions is a public process. As a result, this application may be used or released to the public subject to redaction of personal information by the City as appropriate. Further, I understand that as a potential candidate I may be subject to subsequent public interviews or discussion by the City Council during City Council meetings which are open to the public. Finally, I confirm that, if appointed, I will be able to attend and be fully engaged in scheduled Board and Commission meetings.

Signature: _____

Print Name: _____

Date: _____

# ATTACHMENT 2

**CITY OF YUBA CITY**

**APPLICATION FOR CITY BOARDS AND COMMISSIONS**

APPLICATION FOR APPOINTMENT TO:

**SENIOR COMMISSION**

Name: Tony Kurlan

Address/Zip: [redacted]

Contact Phone: [redacted]

E-mail: [redacted]

Occupation: Retired

Resident of the City of Yuba City: YES ☑ NO ☐

If appointed, will you be able to attend meetings regularly and devote the time necessary to fulfill your duties as a member of the Commission?

YES ☑ NO ☐

**Please Complete the Attached Supplemental Questionnaire**

***Return completed application to:***

City Clerk's Office
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

Or email: cityclerk@yubacity.net

**APPLICATION DEADLINE: FEBRUARY 5, 2024 at 5:00PM**

# Boards & Commissions
## SUPPLEMENTAL QUESTIONNAIRE

Thank you for your interest in serving our community. So that we can get to know you better, please complete the following supplemental questionnaire. This information will help us select the Board Members/Commissioners that will best represent our City and our residents.

*Separate pages may be attached if additional space is needed. Only complete questionnaires will be considered.*

1. Why do you wish to serve as a member of this Commission?

   Have been a member for 8 years; now serving as Vice-Chairperson.

2. What education, training, or background experience do you have that might be help to you for this position? (You may attach a brief resume if you wish.)

   Long history of volunteering since 1982 with Service Clubs (Kiwanis/Lions and various non-profits such as Sutter County Museum Association, United Way, Yuba City Personnel Board.

3. Are you willing to participate in necessary training, education and development activities to improve your effectiveness on the board?

   Yes

4. Do you have any personal or professional interests having the potential to result in financial or material gain for yourself or your immediate family which would present an actual conflict of interest or the appearance of a conflict of interest with the duties of a commissioner or board member on a regular or frequent basis? If so, please describe:

   No

# Boards & Commissions
## SUPPLEMENTAL QUESTIONNAIRE

5. Describe your involvement with the Yuba-Sutter Community including any community service.

- Current Vice-Chairperson of Senior Commission
- Past President of Sutter County Museum Association
- Past Treasurer of Yuba-Sutter-Colusa United Way
- Member of Yuba City Personnel Board

6. Can you attend meetings regularly, making them a priority for the duration of your appointment?

Yes

7. Is your schedule flexible to allow for occasional special meetings? If not, please explain.

Yes

8. Have you participated in local government as a committee member, commissioner, councilmember, or staff? What was your role and what did you learn from it?

- City Parks + Rec Board - Brunswick, OH
- Chair of Medina County Parks Commission - Ohio
- Yuba City Personnel Board
- Member of Curriculum Advisory Committee - Brunswick, OH
- Member of Regional Housing Authority

# Boards & Commissions
## SUPPLEMENTAL QUESTIONNAIRE

9. Do you anticipate residing in Yuba City for the next four years, or would there be any reasonable possibility of relocating out of the area for business or personal reasons in the foreseeable future?

Yes

10. Approximately how many City Council, Planning Commission, or other City meetings have you attended in the last three years?

Over 100

11. In your opinion, what is the purpose of the board or commission for which you are seeking appointment?

Serving the Senior Community of Yuba City.

12. What do you perceive to be the primary issue facing our community now and over the next 5 years? Have you any ideas of how we can approach solutions to these issues?

Funding - Need to pass Revenue Measure to enhance Public Safety + Improve local streets + highways

# Boards & Commissions
## SUPPLEMENTAL QUESTIONNAIRE

13. Is there any additional information you would like to share about yourself or your qualifications for this position?

Above info should suffice.

Additional information:

- If appointed, you may need to complete an FPPC Conflict of Interest Form 700
- You may also be subject to DOJ LiveScan (fingerprinting) and background check
- If appointed, the City will provide orientation and opportunities for training including any training required by State law.

Acknowledgement:

I declare under the penalty of perjury that I am a registered voter with a legal residence or domicile within the City of Yuba City. I also acknowledge and agree that the appointment to fill a vacancy on City Boards and Commissions is a public process. As a result, this application may be used or released to the public subject to redaction of personal information by the City as appropriate. Further, I understand that as a potential candidate I may be subject to subsequent public interviews or discussion by the City Council during City Council meetings which are open to the public. Finally, I confirm that, if appointed, I will be able to attend and be fully engaged in scheduled Board and Commission meetings.

Signature: Tony Kurlan

Print Name: Tony Kurlan

Date: 1/22/2024

# ATTACHMENT 3

# CITY OF YUBA CITY

## APPLICATION FOR CITY BOARDS AND COMMISSIONS

APPLICATION FOR APPOINTMENT TO:

## SENIOR COMMISSION

Name: Tanna Thomas

Address/Zip: [redacted]

Contact Phone: [redacted]

E-mail: [redacted]

Occupation: Retired

Resident of the City of Yuba City: YES [X] NO [ ]

If appointed, will you be able to attend meetings regularly and devote the time necessary to fulfill your duties as a member of the Commission?

YES [X] NO [ ]

**Please Complete the Attached Supplemental Questionnaire**

***Return completed application to:***

City Clerk's Office
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

Or email: cityclerk@yubacity.net

**APPLICATION DEADLINE: FEBRUARY 5, 2024 at 5:00PM**

# Boards & Commissions
## SUPPLEMENTAL QUESTIONNAIRE

Thank you for your interest in serving our community. So that we can get to know you better, please complete the following supplemental questionnaire. This information will help us select the Board Members/Commissioners that will best represent our City and our residents.

*Separate pages may be attached if additional space is needed. Only complete questionnaires will be considered.*

1. Why do you wish to serve as a member of this Commission?

   Please see attached resume

2. What education, training, or background experience do you have that might be help to you for this position? (You may attach a brief resume if you wish.)

   Please see attached resume

3. Are you willing to participate in necessary training, education and development activities to improve your effectiveness on the board?

   Yes

4. Do you have any personal or professional interests having the potential to result in financial or material gain for yourself or your immediate family which would present an actual conflict of interest or the appearance of a conflict of interest with the duties of a commissioner or board member on a regular or frequent basis? If so, please describe:

   No

5. Describe your involvement with the Yuba-Sutter Community including any community service.

   Please see attached resume

6. Can you attend meetings regularly, making them a priority for the duration of your appointment?

   Yes

7. Is your schedule flexible to allow for occasional special meetings? If not, please explain.

   Yes

8. Have you participated in local government as a committee member, commissioner, councilmember, or staff? What was your role and what did you learn from it?

   Please see attached resume

9. Do you anticipate residing in Yuba City for the next four years, or would there be any reasonable possibility of relocating out of the area for business or personal reasons in the foreseeable future?

Yes, I own a home in Yuba City and plan to continue living here.

10. Approximately how many City Council, Planning Commission, or other City meetings have you attended in the last three years?

30 not including the monthly Senior Commission meetings.

11. In your opinion, what is the purpose of the board or commission for which you are seeking appointment?

An advisory body to the City Council, City Manager, and Community Services Department for issues impacting the older adults in Yuba City.

12. What do you perceive to be the primary issue facing our community now and over the next 5 years? Have you any ideas of how we can approach solutions to these issues?

Affordable housing, public safety, and maintaining fiscal stability while addressing growth and city services.

# Boards & Commissions
## SUPPLEMENTAL QUESTIONNAIRE

13. Is there any additional information you would like to share about yourself or your qualifications for this position?

    Please see attached resume

Additional information:

- If appointed, you may need to complete an FPPC Conflict of Interest Form 700
- You may also be subject to DOJ LiveScan (fingerprinting) and background check
- If appointed, the City will provide orientation and opportunities for training including any training required by State law.

Acknowledgement:

I declare under the penalty of perjury that I am a registered voter with a legal residence or domicile within the City of Yuba City. I also acknowledge and agree that the appointment to fill a vacancy on City Boards and Commissions is a public process. As a result, this application may be used or released to the public subject to redaction of personal information by the City as appropriate. Further, I understand that as a potential candidate I may be subject to subsequent public interviews or discussion by the City Council during City Council meetings which are open to the public. Finally, I confirm that, if appointed, I will be able to attend and be fully engaged in scheduled Board and Commission meetings.

Signature: Tanna Thomas

Print Name: Tanna Thomas

Date: February 16, 2024

[redacted] [redacted]

# Tanna Thomas

**Objective**

Reappointment to the Senior Commission – Yuba City

**Employment**

Retired effective June 2010

1976-May 2010 Yuba Community College District, Marysville, CA
**Instructional Support Analyst**

- Responsibilities included maintenance and verification of the college curriculum, faculty utilization and program efficiency reports, coordination of schedule of classes production, and assurance of the integrity of class file data to comply with district policies, state regulations and Chancellor's/System Office MIS reporting requirements

**Education**

Graduate Yuba Community College, Marysville, CA
**Associate in Science - Business Administration**

**Summary of qualifications**

I was appointed by the Governor to serve on the California Community Colleges Board of Governors in 2006, and was appointed to a second term in 2008. My service on the Board of Governors concluded in July, 2011. During my service on the Board of Governors I served as vice chair of the Student Services and Special Programs committee, vice chair of the committee on Equity, Diversity and Human Resources, and Board Budget Liaison. Additionally, I served as one of three Community College Board of Governors members serving with three members of the State Board of Education on the Joint Advisory Committee on Career and Technical Education (JACCTE). In January 2009, I was elected as chair of that committee. The JACCTE serves as the joint policy body that makes recommendations to the two boards regarding all aspects of coordinated delivery of Career Technical Education in the state.

I was a member of the California School Employee Association's Community College Committee for 17 years, and served as committee chair for seven years. I served on the California Community Colleges Chancellor's Consultation Council for more than five years, and participated on various system-wide task forces and work groups.

I believe my breadth of knowledge and practical and professional leadership experience offer a beneficial perspective on the Senior Commission and provide valuable input to the City Council.

I have served two 4-year terms and one 2-year term on the Yuba City Senior Commission and am currently chairperson. Additionally, I am a former member of the Sutter County Commission on Aging. Regionally, I am in my second 4-year term as a member of the Agency on Aging/Area 4 Advisory Council. The AAA4 serves 7 counties.

Thank you for your consideration, I look forward to hearing from you regarding my application to continue serving on the Senior Commission.

CITY OF YUBA CITY
STAFF REPORT

**Date:** March 5, 2024
**To:** Honorable Mayor & Members of the City Council;
**From:** Public Works
**Presentation By:** Ben Moody, Public Works & Development Services Director

---

**Summary**

**Subject:** FEMA Letter of Concurrence
**Recommendation:** Adopt a Resolution authorizing the Public Works Director to submit a Letter of Concurrence to the Federal Emergency Management Agency supporting a Letter of Map Revision request
**Fiscal Impact:** None

---

**Purpose:**

To assure that Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps accurately reflect Sutter Butte Flood Control Agency (SBFCA) levee improvements.

**Council's Strategic Goal:**

This project addresses two City Council Strategic Goals, as the proposed Flood Zone re-mapping improves financial stability throughout the community and enhances opportunities for businesses to successfully operate, while taking advantage of substantial SBFCA infrastructure improvements.

**Background:**

SBFCA staff have been coordinating with Sutter County and Yuba City staff on an upcoming submittal of the 100-year FEMA accreditation package for SBFCA's southern Feather River West Levee Project. SBFCA and Sutter County held a preapplication meeting with FEMA on February 6. SFBCA anticipates sending the submittal to FEMA following closeout of the Federal levee project. Following submittal, it is anticipated that the review and processing period with FEMA will take approximately 3 to 5 years before the proposed mapping changes become effective.

**Analysis:**

SBFCA is requesting the City provide a Letter of Concurrence (Attachment 1, Exhibit A), to be included with the accreditation package, affirming that the City approves of SBFCA requesting revisions to the City's Flood Insurance Rate Maps. The anticipated changes to the maps are generally beneficial to the City overall when considering the protections afforded by the SBFCA levee project. A relatively small area at the northeast corner of Bogue Road and Township Road, which is currently outside the City Limits but within the City Sphere of Influence, would be included in Zone AE. Areas adjacent to the Gilsizer Slough south of Smith Road, which would impact development with the Bogue Stewart Master

Plan area, would also be in Zone AE. This flood zone has actual base flood elevations associated with it, so future development will be informed as to the mitigation required to comply with the City's Flood Zone Protection Ordinance. The remaining areas within the City's sphere of influence will be shown as outside the 100-year flood plain. These properties will not be required to have flood insurance, and if they chose to carry National Flood Insurance Program insurance, they will be charged a lower premium.

**Fiscal Impact:**

There is no fiscal impact. Fees associated with the map revision process will be paid by Sutter County.

**Alternatives:**

Do not authorize a Letter of Concurrence to be submitted at this time and instead request additional information from SBFCA, either through City staff or through a formal Council study session.

**Recommendation:**

Adopt a Resolution authorizing the Public Works Director to submit a Letter of Concurrence to the Federal Emergency Management Agency supporting a Letter of Map Revision request.

**Attachments:**

1. Resolution - FEMA Letter of Concurrence
2. Exhibit A - Letter of Concurrence

| Prepared By: | Submitted By: |
|---|---|
| Kevin Bradford | Diana Langley |
| Deputy Public Works Director - Engineering | City Manager |

# ATTACHMENT 1

**RESOLUTION NO. _____**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY AUTHORIZING THE PUBLIC WORKS DIRECTOR TO SUBMIT A LETTER OF CONCURRENCE TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY SUPPORTING A LETTER OF MAP REVISION REQUEST**

WHEREAS, the Sutter Butte Flood Control Agency (SBFCA) has completed the Feather River West Levee Project throughout Butte and Sutter Counties; and

WHEREAS, SBFCA, in coordination with Sutter County, must submit a 100-year accreditation package to the Federal Emergency Management Agency (FEMA) in order for FEMA to certify the levees afford the community 100-year flood protection; and

WHEREAS, as part of the accreditation package, SBFCA requests that the City provide a letter of concurrence (Exhibit A) affirming that the City approves of SBFCA requesting revisions to the City's Flood Insurance Rate Maps.

NOW, THEREFORE, be it resolved by the City Council of the City of Yuba City as follows:

1. The City Council finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.

2. The City Council hereby authorizes the Public Works Director to submit a Letter of Concurrence to the Federal Emergency Management Agency supporting a Letter of Map Revision request as part of the Feather River West Levee Project accreditation process.

3. This Resolution shall become effective immediately.

The foregoing resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 5th day of March, 2024.

AYES:

NOES:

ABSENT:

_____
Shon Harris, Mayor

ATTEST:

_____
Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

_____

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

Exhibit A – Letter of Concurrence

# EXHIBIT A

March 5, 2024

Mr. Daven Patel
MT-2 Technical Manager
STARR II
3601 Eisenhower Ave, Suite 500
Alexandria, VA 22304-6426

**Subject: Sutter County LOMR Request**

Dear Mr. Patel,

This communication is to inform your office of a forthcoming Letter of Mapping Revision (LOMR) request to be submitted by the County of Sutter for the City of Yuba City, California. Furthermore, the City acknowledges that it is aware of the upcoming submittal, has reviewed the revision request, understands the effects of the revision on flooding conditions in the community, and has determined that any land and any existing or proposed structures to be removed from the Special Flood Hazard Area are reasonably safe from flooding.

The City understands how Sutter Butte Flood Control Agency (SBFCA), in coordination with Sutter County, will prepare a Letter of Map Revision request for the accreditation of the Southern Feather River West Levee (FRWL) within Sutter County. The request includes documentation for approximately 29.9 miles of the FRWL and includes proposed FIRM changes to the west side of the Feather River (see attached overview figure).

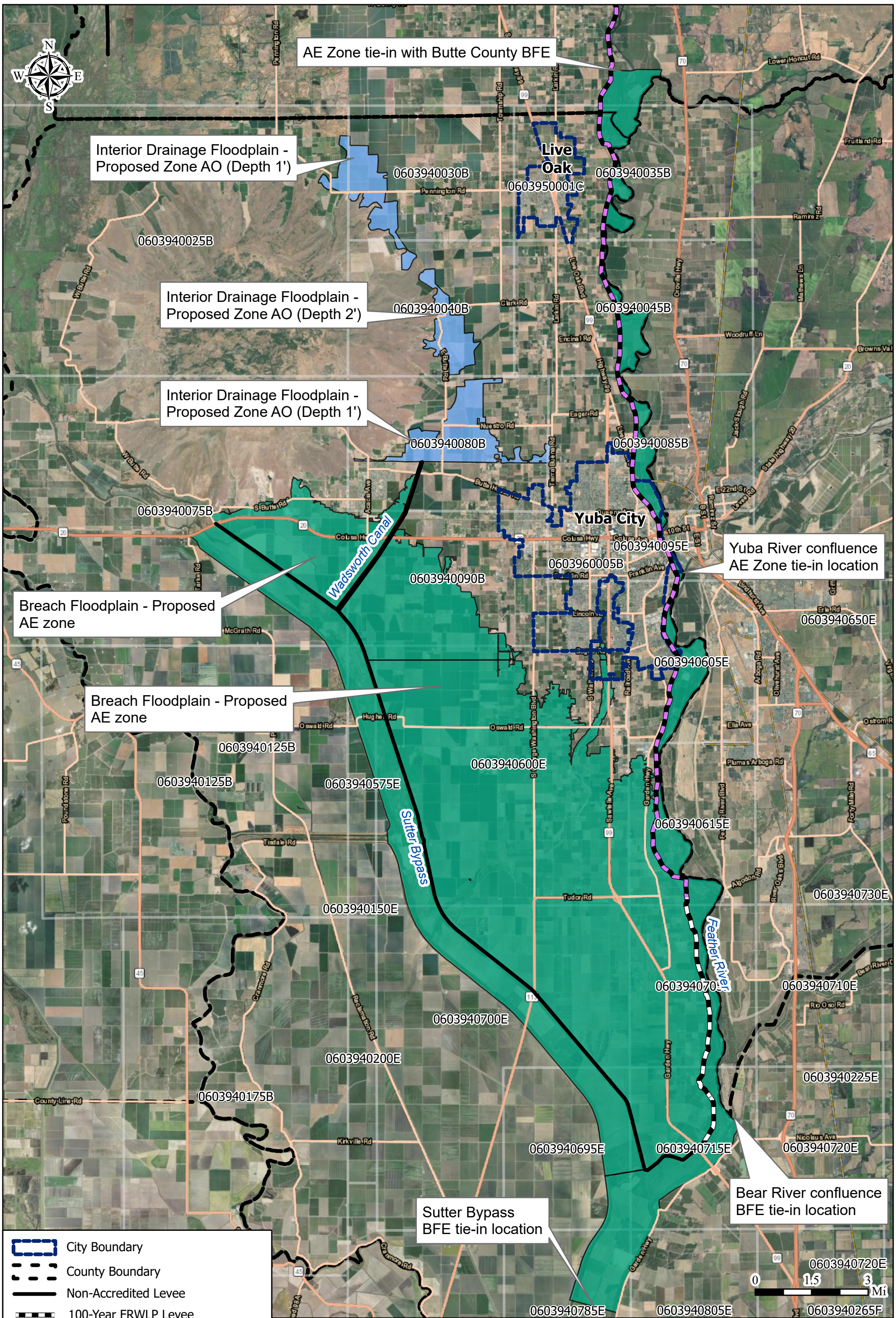
The City of Yuba City is a voting member of the 13-person Board of Directors of SBFCA. Through this role, the City has been actively involved in the Feather River West Levee Project since its inception. If you have any questions or need any additional information regarding this matter, please don't hesitate to contact me.

Sincerely,

Benjamin K. Moody
Public Works and Development Services Director

Attachment: Overview of Proposed Changes to Existing FIRM

# ATTACHMENT




R&F ENGINEERING
919 Reserve Drive, Suite 125
Roseville, CA 95678
(209)304-1739

**Sutter Butte Flood Control Agency**

# Overview of Proposed Changes to Existing FIRMS - Sutter County

**Figure 5**

Date: May 2023

CITY OF YUBA CITY
STAFF REPORT

**Date:** March 5, 2024
**To:** Honorable Mayor & Members of the City Council;
**From:** Finance/IT Department
**Presentation By:** Spencer Morrison, Finance Director

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**Summary**

**Subject:** Presentation of Investment Report – Quarter Ended December 31, 2023
**Recommendation:** Note & File Quarterly Investment Report
**Fiscal Impact:** Informational item only

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**Purpose:**

To provide information regarding the investment of City funds.

**Council's Strategic Goal:**

This staff report addresses the City Council's Strategic Goal of fiscal responsibility.

**Background:**

In accordance with the City's adopted Investment Policies, staff prepared the attached investment report for City Council review for the previous quarter (October, November, December 2023).

**Analysis:**

**Portfolio Highlights:**

- As of December 31, 2023, the City's overall investment portfolio (estimated market value) totaled $145,100,309, a decrease of $3,553,442 from the previous quarter.
- Notable transactions during the quarter that affected cash flow included:
    - Gas tax, SB1 and other streets & roads receipts, $1.5 million;
    - Sales tax receipts, $4.5 million;
    - SBFCA expenses, $1.5 million, and revenues, $750 thousand
    - Debt service payments, utility bonds, $1.6 million.

- The portfolio shows a "paper loss" of $921,034 as of December 31st. This represents the amount of value that the City would lose if it were to liquidate its entire portfolio at the end of the reporting period. However, such losses will not be realized if the investments are held until

maturity (which is the City's general investment strategy).

- The City's portfolio is still replacing lower yield instruments with higher yields for each maturing bond in this fixed income market, and the overall portfolio yield increased compared to past quarters. The portfolio remains positioned for a higher yield environment by keeping the maturity dates of our purchases in a longer position, currently 1.20 weighted average years to maturity, while remaining watchful for signs of an economic shift. For the quarter ended 12/31/23, 47 investments matured or sold, partially or in whole, with an average yield of 0.83%. Excluding asset-backed securities and seven investments matured or sold with an average yield of 1.72%. These funds, along with LAIF holdings, were invested in eight instruments with an average yield of 4.75%. The Weighted Average Yield to Maturity of the City's total investment portfolio increased from 3.31% to 3.62% for the quarter.
- The City's cash flow needs will be met by roughly $60.4 million in liquid assets as of December 31st (approximately 42.5% of the City Held Investments portfolio value) that is currently invested in LAIF, CAMP, First American money management funds, and in the City's Wells Fargo checking account.

**Outlook:** Anticipating a slowdown, the City's portfolio is positioned for longer maturities to hang onto the higher interest revenue for as long as we can. Future Federal Reserve rate cuts up to 75 basis points are possible in the next 12 months as price stability is their priority. With yield curve inversion, we might expect more recession discussions to occur in the next six months.

**Summary Overview**: The City's investment portfolio continues to remain safe and stable. Each investment complies with state law and the City's formal Investment Policies. Our three primary objectives for the City's portfolio are safety, liquidity, and then yield. Staff continues to conservatively look for opportunities in today's marketplace while remaining focused on our primary objectives.

**Fiscal Impact:**

Informational Item only.

**Recommendation:**

Note and file the Quarterly Investment Report for the period ending December 31, 2023.

**Attachments:**

1. 2nd Qtr. 2024 Investment Report

Prepared By:
Spencer Morrison
City Treasurer

Submitted By:
Spencer Morrison
City Treasurer

# Attachment 1

**City of Yuba City**

# Treasurer's Quarterly Investment Report

AS PRESCRIBED BY CALIFORNIA GOVERNMENT CODE SECTION 53646

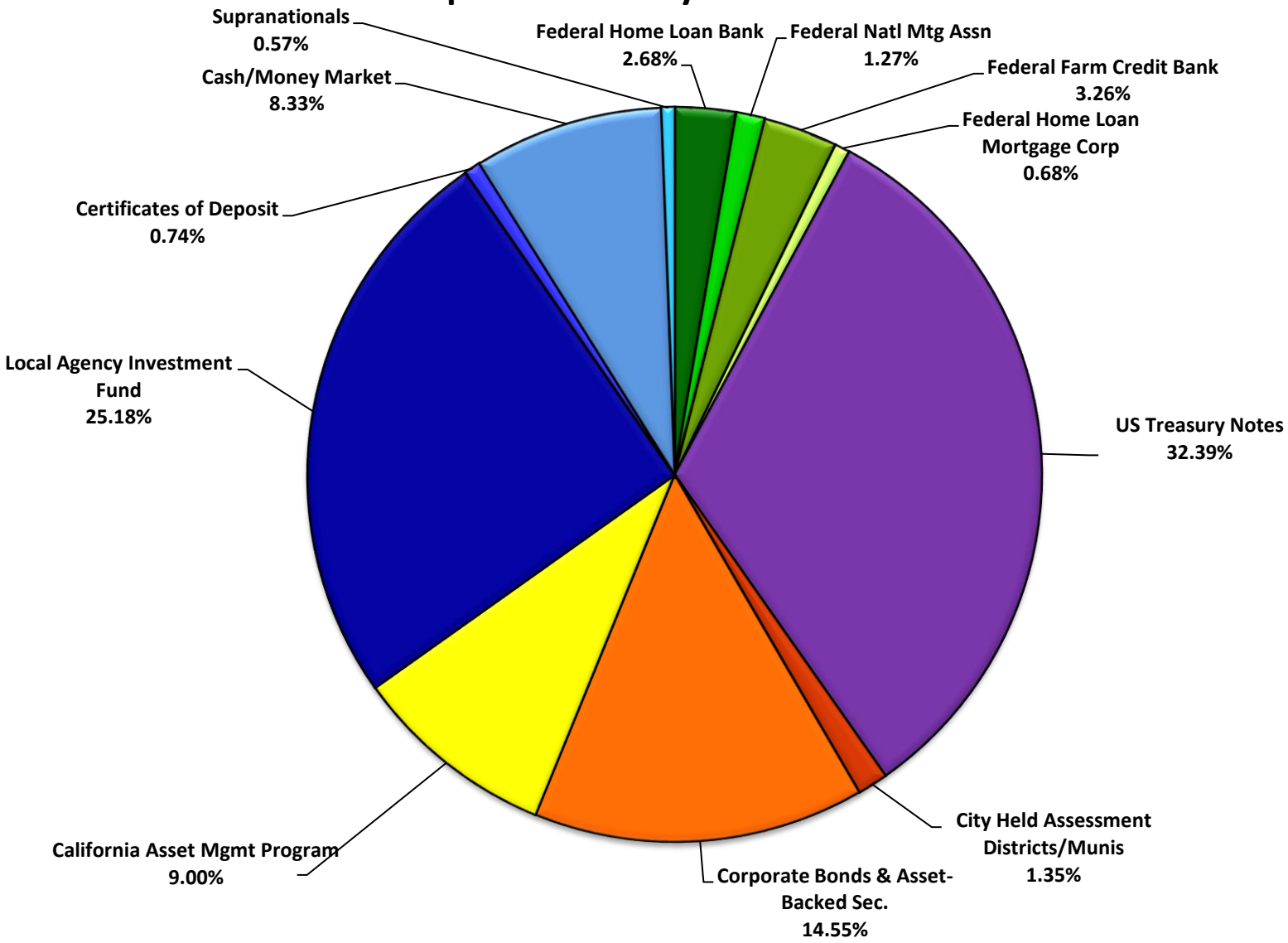
*December 31, 2023*

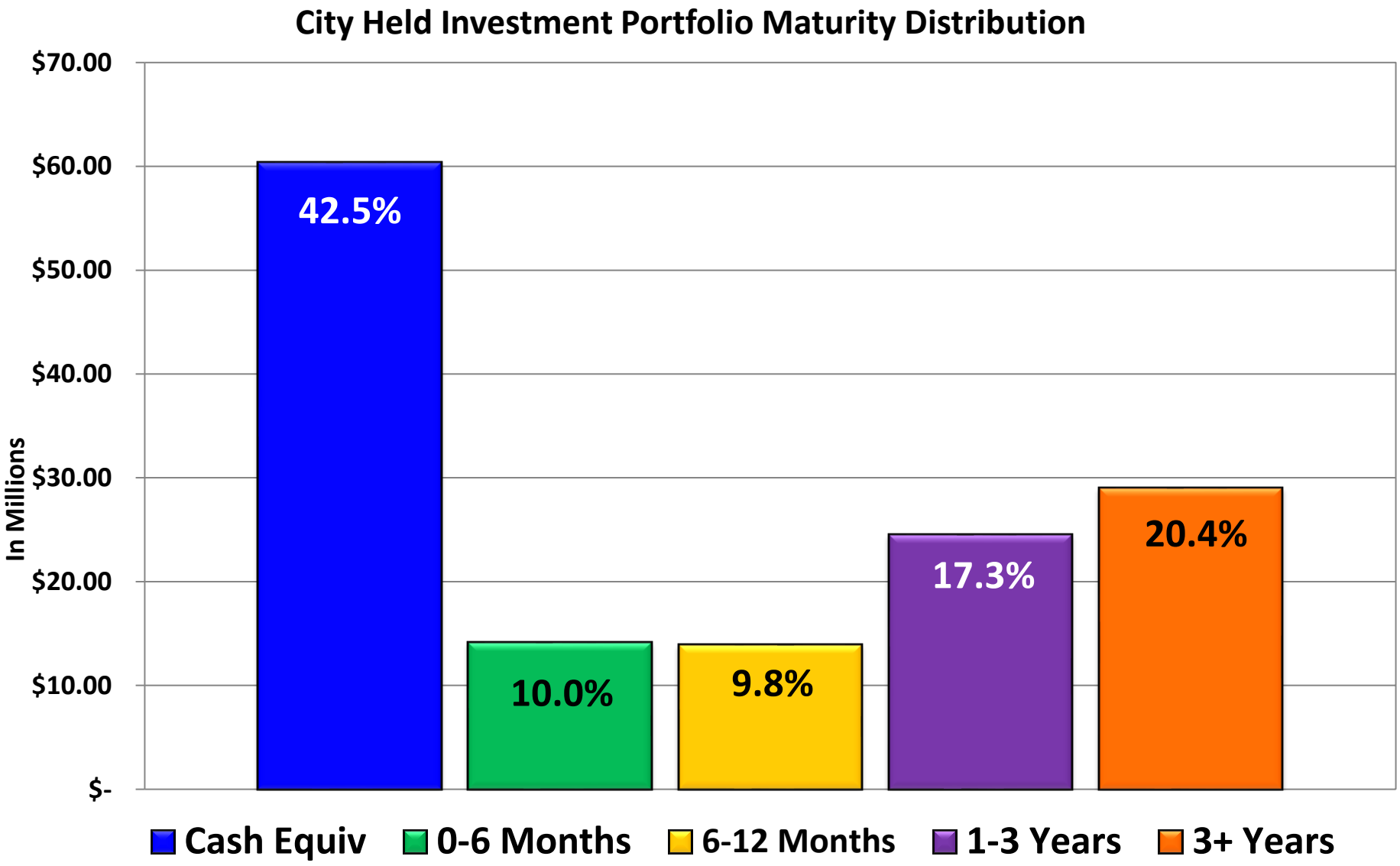
The following table provides a comparison of the portfolio for the quarter ended December, and the previous quarters ended July, August, and September 2023.

| Portfolio Comparison | | | | |
|---|---|---|---|---|
| | 3/31/23 | 6/30/23 | 9/30/23 | **12/31/23** |
| Cost Basis | $135,883,897 | $168,112,812 | $151,626,311 | **$146,021,344** |
| Estimated Market Value | 133,199,069 | 164,713,193 | 148,653,751 | **145,100,309** |
| Unrealized Gains/(Losses) (1) | (2,684,829) | (3,399,620) | (2,972,560) | **(921,034)** |
| Liquidity | 43.38% | 50.93% | 45.14% | **42.52%** |
| Weighted Average Years: Maturity of City Held Funds | 1.24 years | 1.11 years | 1.19 years | **1.20 years** |
| LAIF Interest Rate | 2.074% | 3.167% | 3.534% | **4.000%** |
| CAMP Interest Rate | 4.800% | 5.24% | 5.24% | **5.550%** |
| Portfolio: Weighted Average Yield to Maturity at Market | 2.40% | 3.11% | 3.31% | **3.62%** |
| CPI (Annualized) | 5.0% | 3.0% | 3.7% | **3.4%** |

Note: (1) This represents the amount of money that the City would gain (or lose) if it were to liquidate its entire portfolio at the end of the reporting period. However, such gains (or losses) will not be realized if the investments are held until maturity (which is the City's historical investment strategy).

# Composition of City Held Investments




City Held Investment Portfolio Maturity Distribution
$70.00
$60.00
$50.00
$40.00
$30.00
$20.00
$10.00
$-
In Millions
42.5%
10.0%
9.8%
17.3%
20.4%
Cash Equiv
0-6 Months
6-12 Months
1-3 Years
3+ Years

**City of Yuba City**
**Monthly Investment Statement**
**City Held Investments**

**December, 2023**

| No. | Description of Security | Asset Type | IA | Broker | CUSIP NO. | Maturity Date | Coupon Rate | Yield to Maturity | Cost Basis | Estimated Market Value | Unrealized Gain/(Loss) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | U.S. Consumer Price Index (Inflation) | | | | | 12/31/23 | | 3.400% | | | |
| 1 | Local Agency Investment Fund (LAIF) | | | State Treasurer | N/A | Daily | 4.000% | 4.000% | $ 35,996,748 | $ 35,764,322 | $ (232,426) |
| 2 | Calif. Asset Management Program (CAMP) | | City | CAMP | N/A | Daily | 5.550% | 5.550% | $ 12,782,354 | $ 12,782,354 | - |
| 3 | Wells Fargo Money Market & Checking Accts. | | City | Wells Fargo | N/A | Daily (Sweep) | 5.226% | 5.226% | $ 11,577,807 | $ 11,577,807 | - |
| 4 | First American Institutional Prime | Money Market | | | 26200630S | Daily | 4.840% | 4.840% | $ 251,359 | $ 251,359 | - |
| 5 | US Treasury Notes | US Treasury Notes | Insight | Wells Fargo Securities | 91282CBE0 | 01/15/24 | 1.250% | 0.443% | $ 695,026 | $ 698,712 | 3,686 |
| 6 | US Bancorp MTNS Bank Notes | Corporate Bonds | Insight | US Bancorp Investments | 91159HHV5 | 02/05/24 | 3.375% | 2.075% | $ 1,049,040 | $ 997,630 | (51,410) |
| 7 | Federal National Mortgage (Fannie Mae) | Federal Agency | PFM | Citigroup Global Markets | 3135G0V34 | 02/05/24 | 2.500% | 2.600% | $ 398,200 | $ 398,940 | 740 |
| 8 | US Bancorp MTNS Bank Notes | Corporate Bonds | PFM | US Bancorp Investments | 91159HHV5 | 02/05/24 | 3.375% | 3.190% | $ 453,848 | $ 448,934 | (4,914) |
| 9 | US Treasury Notes | US Treasury Notes | PFM | Citigroup Global Markets | 912828B66 | 02/15/24 | 2.750% | 4.636% | $ 268,984 | $ 274,134 | 5,149 |
| 10 | Schwab Charles Corp | Corporate Bonds | PFM | Credit Suisse | 808513BN4 | 03/18/24 | 0.000% | 0.770% | $ 84,958 | $ 84,127 | (831) |
| 11 | Federal Farm Credit Bank | Federal Agency | Insight | Morgan Stanley | 3133EMBE1 | 03/28/24 | 0.300% | 0.322% | $ 1,099,175 | $ 1,086,151 | (13,024) |
| 12 | US Treasury Notes | US Treasury Notes | Insight | NOMURA | 912828W71 | 03/31/24 | 2.125% | 1.673% | $ 662,444 | $ 644,820 | (17,624) |
| 13 | Federal Home Loan Bank | Federal Agency | Insight | Wells Fargo Securities | 3130AMQQ8 | 04/23/24 | 0.350% | 0.350% | $ 1,500,000 | $ 1,476,810 | (23,190) |
| 14 | US Treasury Notes | US Treasury Notes | Insight | JP Morgan Securities | 912828X70 | 04/30/24 | 2.000% | 1.591% | $ 509,004 | $ 494,765 | (14,239) |
| 15 | IBM Corporate Notes | Corporate Bonds | Insight | Citigroup | 459200JY8 | 05/15/24 | 3.000% | 0.538% | $ 540,180 | $ 497,656 | (42,524) |
| 16 | IBM Corporate Notes | Corporate Bonds | Insight | Morgan Stanley | 459200JY8 | 05/15/24 | 3.000% | 0.715% | $ 535,390 | $ 493,244 | (42,146) |
| 17 | Caterpillar Mtn | Corporate Bonds | Insight | Calyon NY | 14913R2L0 | 05/17/24 | 0.450% | 0.497% | $ 998,750 | $ 981,620 | (17,130) |
| 18 | American Honda Finance Corp Med Term Notes | Corporate Bonds | PFM | Gov Perspectives/Chase | 02665WCZ2 | 06/27/24 | 2.400% | 2.430% | $ 249,603 | $ 246,315 | (3,288) |
| 19 | US Treasury Notes | US Treasury Notes | PFM | HSBC Securities ASP | 912828XX3 | 06/30/24 | 2.000% | 1.653% | $ 761,191 | $ 731,017 | (30,174) |
| 20 | US Treasury Notes | US Treasury Notes | PFM | HSBC Securities ASP | 912828XX3 | 06/30/24 | 2.000% | 1.419% | $ 1,127,113 | $ 1,082,434 | (44,680) |
| 21 | US Treasury Notes | US Treasury Notes | PFM | HSBC Securities ASP | 912828XX3 | 06/30/24 | 2.000% | 0.672% | $ 422,578 | $ 405,827 | (16,751) |
| 22 | US Treasury Notes | US Treasury Notes | PFM | HSBC Securities ASP | 912828XX3 | 06/30/24 | 2.000% | 1.566% | $ 815,500 | $ 783,173 | (32,327) |
| 23 | US Treasury Notes | US Treasury Notes | PFM | Bank of Montreal | 91282CEX5 | 06/30/24 | 3.000% | 3.490% | $ 49,574 | $ 50,104 | 530 |
| 24 | US Treasury Notes | US Treasury Notes | PFM | JP Morgan Securities | 91282CEX5 | 06/30/24 | 3.000% | 4.260% | $ 2,251,215 | $ 2,275,291 | 24,076 |
| 25 | US Treasury Notes | US Treasury Notes | Insight | HSBC Secs USA NY | 91282CCL3 | 07/15/24 | 0.375% | 0.409% | $ 649,367 | $ 633,900 | (15,468) |
| 26 | US Treasury Notes | US Treasury Notes | PFM | JP Morgan Securities LLC | 91282CCT6 | 08/15/24 | 0.375% | 0.410% | $ 1,198,922 | $ 1,165,596 | (33,326) |
| 27 | Walt Disney Co Corporate Bonds | Corporate Bonds | PFM | Gov Perspectives/Chase | 254687FK7 | 08/30/24 | 1.750% | 1.836% | $ 273,878 | $ 268,557 | (5,321) |
| 28 | US Treasury Notes | US Treasury Notes | PFM | Bank of Montreal | 912828YE4 | 08/31/24 | 1.250% | 5.230% | $ 3,436,031 | $ 3,511,836 | 75,805 |
| 29 | Darrough Drive AD | City Held Bond | City | | | 09/02/24 | 6.000% | 6.000% | $ 12,246 | $ 12,246 | - |
| 30 | Deere John Mtn | Corporate Bonds | PFM | HSBC Securities, Inc. | 24422EVU0 | 09/10/24 | 0.625% | 0.650% | $ 89,942 | $ 87,220 | (2,722) |
| 31 | Toyota Motor Credit Corp | Corporate Bonds | Insight | Citigroup Global Markets Inc. | 89236TJN6 | 09/13/24 | 0.625% | 2.770% | $ 522,550 | $ 532,642 | 10,093 |
| 32 | Caterpillar Finl Mtn | Corporate Bonds | PFM | Citigroup Global Markets Inc. | 14913R2P1 | 09/13/24 | 0.600% | 0.650% | $ 224,694 | $ 217,820 | (6,874) |
| 33 | Plumas Bank CD | Certificate of Deposit | City | Plumas Bank | 269101799 | 09/17/24 | 0.000% | 0.000% | $ 1,049,560 | $ 1,049,560 | - |
| 34 | Inter Amer Bk Mtn | Supranationals | PFM | JP Morgan - London | 4581X0DZ8 | 09/23/24 | 0.500% | 0.520% | $ 584,567 | $ 566,204 | (18,363) |
| 35 | US Treasury Notes | US Treasury Notes | Insight | Barclays Cap Whippany | 912828YH7 | 09/30/24 | 1.500% | 0.474% | $ 154,764 | $ 146,232 | (8,532) |
| 36 | Federal Farm Credit Bank | Federal Agency | Insight | Morgan Stanley | 3133EMCN0 | 10/15/24 | 0.400% | 0.432% | $ 948,813 | $ 917,026 | (31,787) |
| 37 | MBART 2021-B A3 | ABS / CMO | PFM | Govt Perspectives, LLC/Chase | 58769KAD6 | 11/15/24 | 0.400% | 0.400% | $ 11,718 | $ 11,697 | (21) |
| 38 | California St Dept Wtr Res Cent | Municipal Bonds | Insight | Oppenheimer & Co., Inc. | 13067WPG1 | 12/01/24 | 2.751% | 1.486% | $ 179,348 | $ 166,632 | (12,716) |
| 39 | US Treasury Notes | US Treasury Notes | PFM | Morgan Stanley | 912828YY0 | 12/31/24 | 1.750% | 0.326% | $ 1,224,795 | $ 1,124,621 | (100,174) |
| 40 | US Treasury Notes | US Treasury Notes | PFM | Govt Perspectives, LLC/Chase | 912828YY0 | 12/31/24 | 1.750% | 0.180% | $ 961,945 | $ 883,269 | (78,676) |
| 41 | US Treasury Notes | US Treasury Notes | PFM | Govt Perspectives, LLC/Chase | 912828YY0 | 12/31/24 | 1.750% | 0.270% | $ 1,092,426 | $ 1,003,078 | (89,348) |
| 42 | US Treasury Notes | US Treasury Notes | PFM | Govt Perspectives, LLC/Chase | 912828YY0 | 12/31/24 | 1.750% | 0.280% | $ 955,793 | $ 877,620 | (78,173) |
| 43 | US Treasury Notes | US Treasury Notes | PFM | Govt Perspectives, LLC/Chase | 912828YY0 | 12/31/24 | 1.750% | 0.290% | $ 424,031 | $ 389,350 | (34,681) |
| 44 | US Treasury Notes | US Treasury Notes | PFM | Nomura Securities | 912828YY0 | 12/31/24 | 1.750% | 2.940% | $ 387,875 | $ 356,151 | (31,724) |
| 45 | BMWLT 2021-2 A4 | ABS / CMO | PFM | Wells Fargo | 09690AAD5 | 01/27/25 | 0.430% | 0.431% | $ 369,986 | $ 368,520 | (1,466) |
| 46 | US Treasury Notes | US Treasury Notes | PFM | HSBC Securities, Inc. | 91282CDZ1 | 02/15/25 | 1.500% | 2.840% | $ 337,928 | $ 337,764 | (164) |
| 47 | American Express Co Corp Note | Corporate Bonds | PFM | Barclay | 025816CQ0 | 03/04/25 | 2.250% | 2.290% | $ 79,919 | $ 77,397 | (2,522) |
| 48 | John Deere Med Term Notes | Corporate Bonds | Insight | Bank of Montreal | 24422EWB1 | 03/07/25 | 2.125% | 3.030% | $ 975,850 | $ 969,170 | (6,680) |
| 49 | Roche Holdings Inc. (Callable) Corporate | Corporate Bonds | PFM | Deutsche Bankc Alex Brown Inc. | 771196BT8 | 03/10/25 | 2.130% | 2.130% | $ 365,000 | $ 353,871 | (11,129) |
| 50 | Home Depot Inc Corporate Notes | Corporate Bonds | PFM | Morgan Stanley | 437076CM2 | 04/15/25 | 2.700% | 2.760% | $ 24,956 | $ 24,383 | (573) |
| 51 | Bank of New York Mellon | Corporate Bonds | PFM | Nesbitt and Burns | 06406RAN7 | 04/24/25 | 1.600% | 0.841% | $ 437,402 | $ 407,885 | (29,516) |
| 52 | US Treasury Notes | US Treasury Notes | Insight | RBS Global | 912828ZL7 | 04/30/25 | 0.375% | 2.710% | $ 838,409 | $ 851,697 | 13,288 |

**City of Yuba City**
**Monthly Investment Statement**
**City Held Investments**

**December, 2023**

| No. | Description of Security | Asset Type | IA | Broker | CUSIP NO. | Maturity Date | Coupon Rate | Yield to Maturity | Cost Basis | Estimated Market Value | Unrealized Gain/(Loss) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 53 | Cintas Corporation | Corporate Bonds | PFM | Pershing, LLC | 17252MAP5 | 05/01/25 | 3.450% | 3.460% | $ 59,987 | $ 58,923 | (1,064) |
| 54 | USAA Capital Corp | Corporate Bonds | PFM | Bank of America Sec | 90327QD89 | 05/01/25 | 3.375% | 3.490% | $ 214,297 | $ 210,466 | (3,831) |
| 55 | Chevron Corp New Notes | Corporate Bonds | Insight | RBS Capital Markets, LLC | 166764BW9 | 05/11/25 | 1.554% | 3.200% | $ 572,040 | $ 575,316 | 3,276 |
| 56 | Apple Inc. | Corporate Bonds | PFM | Deutsche Bankc Alex Brown Inc. | 037833BG4 | 05/13/25 | 3.200% | 0.814% | $ 436,332 | $ 391,856 | (44,476) |
| 57 | The Goldman Sachs Group | Corporate Bonds | PFM | Deutsche Bankc Alex Brown Inc. | 38148LAE6 | 05/22/25 | 3.750% | 1.026% | $ 222,856 | $ 195,878 | (26,978) |
| 58 | National Australia | Supranationals | PFM | Citigroup Global Markets Inc. | 63254ABD9 | 06/09/25 | 3.500% | 3.500% | $ 250,000 | $ 245,715 | (4,285) |
| 59 | National Rural Med Term Notes | Corporate Bonds | PFM | RBC Capital Markets | 63743HFE7 | 06/15/25 | 3.450% | 3.460% | $ 44,988 | $ 44,062 | (926) |
| 60 | US Treasury Notes | US Treasury Notes | PFM | Govt Perspectives, LLC/Chase | 912828ZW3 | 06/30/25 | 0.250% | 0.360% | $ 760,884 | $ 727,927 | (32,957) |
| 61 | US Treasury Notes | US Treasury Notes | Insight | RBS Capital Markets, LLC | 912828ZW3 | 06/30/25 | 0.250% | 3.030% | $ 551,627 | $ 563,556 | 11,929 |
| 62 | JP Morgan Chase & Co | Corporate Bonds | PFM | RBC Capital Markets | 46625HMN7 | 07/15/25 | 3.900% | 1.024% | $ 450,500 | $ 393,788 | (56,712) |
| 63 | GMALT 2021-3 A4 | ABS / CMO | PFM | JPM_CHA | 36262XAD6 | 07/21/25 | 0.500% | 0.501% | $ 69,765 | $ 69,433 | (332) |
| 64 | IBM Corporate Notes | Corporate Bonds | PFM | JP Morgan Securities | 459200KS9 | 07/27/25 | 4.000% | 4.000% | $ 200,000 | $ 197,790 | (2,210) |
| 65 | Federal National Mortgage (Fannie Mae) | Federal Agency | PFM | Morgan Stanley | 3135G05X7 | 08/25/25 | 0.375% | 0.410% | $ 499,070 | $ 467,460 | (31,610) |
| 66 | Federal National Mortgage (Fannie Mae) | Federal Agency | Insight | Morgan Stanley | 3135G05X7 | 08/25/25 | 0.375% | 3.050% | $ 918,880 | $ 934,920 | 16,040 |
| 67 | Buttes Vista 2000-1 AD, 2013 Refunding | City Held Bond | City | | | 09/02/25 | 2.730% | 2.730% | $ 89,774 | $ 89,774 | - |
| 68 | Walmart Inc. Corporate Notes | Corporate Bonds | PFM | Barclays Capital | 931142EW9 | 09/09/25 | 3.900% | 3.920% | $ 164,885 | $ 163,813 | (1,072) |
| 69 | Walmart Inc. Corporate Notes | Corporate Bonds | PFM | Barclays Capital | 931142EW9 | 09/09/25 | 3.900% | 4.070% | $ 398,160 | $ 395,571 | (2,589) |
| 70 | Federal Farm Credit Bank | Federal Agency | Insight | Tdomus33 Toronto Dominion | 3133ENP95 | 09/30/25 | 4.250% | 4.191% | $ 1,101,808 | $ 1,096,942 | (4,866) |
| 71 | United Health Group | Corporate Bonds | PFM | BofA Securities | 91324PEN8 | 10/15/25 | 5.150% | 5.150% | $ 69,994 | $ 70,764 | 770 |
| 72 | National Rural Med Term Notes | Corporate Bonds | PFM | Pnc Bank Na/Pnc Cap Markets | 63743HFF4 | 10/30/25 | 5.450% | 5.500% | $ 64,913 | $ 65,651 | 738 |
| 73 | Citigroup Inc. Corporate Notes (Callable) | Corporate Bonds | PFM | CITIGRP | 172967ND9 | 11/03/25 | 1.281% | 1.281% | $ 135,000 | $ 129,888 | (5,112) |
| 74 | HAROT 2021-3 A3 | ABS / CMO | PFM | BARCLAY | 43815EAC8 | 11/18/25 | 0.410% | 0.410% | $ 66,980 | $ 65,295 | (1,685) |
| 75 | Amazon | Corporate Bonds | PFM | J.P. Morgan Securities | 023135CN4 | 12/01/25 | 4.600% | 4.600% | $ 624,963 | $ 626,631 | 1,669 |
| 76 | Bank of America Corp Notes (Callable) | Corporate Bonds | PFM | MERRILL | 06051GKE8 | 12/06/25 | 1.530% | 1.530% | $ 225,000 | $ 216,304 | (8,696) |
| 77 | US Treasury Notes | US Treasury Notes | PFM | Govt Perspectives, LLC/Chase | 91282CBC4 | 12/31/25 | 0.380% | 0.728% | $ 368,965 | $ 347,535 | (21,430) |
| 78 | US Treasury Notes | US Treasury Notes | Insight | Deutsche Bank Securities | 9128285T3 | 12/31/25 | 2.625% | 4.834% | $ 526,176 | $ 532,983 | 6,807 |
| 79 | Federal Home Loan Mortgage Corp (Freddie Mac) | Federal Agency | Insight | Wells Fargo Securities | 3137EAEP0 | 02/12/25 | 1.500% | 5.280% | $ 951,970 | $ 965,410 | 13,440 |
| 80 | HART 2021-B A3 | ABS / CMO | PFM | Salomon Bros. | 44934KAC8 | 01/15/26 | 0.380% | 0.390% | $ 85,503 | $ 83,661 | (1,842) |
| 81 | HAROT 2021-4 A3 | ABS / CMO | PFM | MERRILL | 43815GAC3 | 01/21/26 | 0.880% | 0.885% | $ 90,533 | $ 87,867 | (2,666) |
| 82 | Bank of America Corp F/R | Corporate Bonds | PFM | Merrill Lynch Fixed Income | 06051GGZ6 | 01/23/26 | 3.366% | 1.326% | $ 219,558 | $ 195,326 | (24,232) |
| 83 | Morgan Stanley | Corporate Bonds | PFM | Merrill Lynch Fixed Income | 61746BDZ6 | 01/27/26 | 3.875% | 1.270% | $ 224,686 | $ 195,882 | (28,804) |
| 84 | State Street Corp | Corporate Bonds | PFM | Goldman Sachs & Co LLC | 857477BR3 | 02/06/26 | 1.746% | 1.750% | $ 65,000 | $ 62,459 | (2,541) |
| 85 | Federal Farm Credit Bank | Federal Agency | Insight | Wells Fargo Securities | 3133EPCF0 | 03/02/26 | 4.500% | 5.060% | $ 1,086,581 | $ 1,104,081 | 17,500 |
| 86 | HART 2021-C A3 | ABS / CMO | PFM | SMBC | 44935FAD6 | 05/15/26 | 0.740% | 0.745% | $ 69,036 | $ 67,177 | (1,859) |
| 87 | Carmx 2021-3 A3 | ABS / CMO | PFM | RBC Capital Markets | 14317DAC4 | 06/15/26 | 0.550% | 0.550% | $ 107,689 | $ 104,352 | (3,337) |
| 88 | MBART 2021-1 A3 | ABS / CMO | PFM | MIZUHO | 58772WAC7 | 06/15/26 | 0.460% | 0.463% | $ 120,182 | $ 116,618 | (3,564) |
| 89 | TAOT 2022A A3 | ABS / CMO | PFM | BNP Paribas Securities Corp/BO | 89239KAC5 | 06/15/26 | 0.000% | 1.230% | $ 144,064 | $ 140,199 | (3,864) |
| 90 | GM Fin Cons Auto Rec TR 2021 A-3 | ABS / CMO | PFM | Wells Fargo Securities | 380140AC7 | 06/16/26 | 0.480% | 0.480% | $ 63,204 | $ 61,398 | (1,805) |
| 91 | Toyota Motor Credit Corp | Corporate Bonds | PFM | Market Axess Corp | 89236TJK2 | 06/18/26 | 1.125% | 1.204% | $ 224,145 | $ 207,765 | (16,380) |
| 92 | VALET 2021-1 A3 | ABS / CMO | PFM | WELLS_F | 92868KAC7 | 06/22/26 | 1.020% | 1.021% | $ 112,901 | $ 109,904 | (2,997) |
| 93 | COMET 2021-A1 | ABS / CMO | PFM | RBC Capital Markets | 14041NFW6 | 07/15/26 | 0.550% | 0.550% | $ 279,989 | $ 272,740 | (7,249) |
| 94 | US Treasury Notes | US Treasury Notes | PFM | JP Morgan Securities | 91282CCP4 | 07/31/26 | 0.625% | 3.030% | $ 910,781 | $ 927,343 | 16,562 |
| 95 | US Treasury Notes | US Treasury Notes | PFM | JP Morgan Securities | 91282CCP4 | 07/31/26 | 0.625% | 3.040% | $ 1,274,984 | $ 1,298,169 | 23,184 |
| 96 | US Treasury Notes | US Treasury Notes | PFM | HSBC Securities | 91282CCP4 | 07/31/26 | 0.625% | 3.330% | $ 405,545 | $ 412,919 | 7,374 |
| 97 | US Treasury Notes | US Treasury Notes | PFM | BNP Paribas Securities | 91282CCP4 | 07/31/26 | 0.625% | 3.460% | $ 807,785 | $ 822,474 | 14,689 |
| 98 | US Treasury Notes | US Treasury Notes | PFM | Citigroup Global Markets, Inc. | 91282CCP4 | 07/31/26 | 0.625% | 3.930% | $ 1,998,633 | $ 2,034,976 | 36,343 |
| 99 | Federal Home Loan Bank | Federal Agency | Insight | Citigroup Global Markets, Inc. | 3130AWTQ3 | 09/11/26 | 4.625% | 4.750% | $ 647,680 | $ 658,418 | 10,738 |
| 100 | COPAR 2021-1 A3 | ABS / CMO | PFM | JPM_CHA | 14044CAC6 | 09/15/26 | 0.770% | 0.770% | $ 94,605 | $ 91,562 | (3,043) |
| 101 | TAOT 2022-B A3 | ABS / CMO | PFM | Mitsubishi UFJ Securities | 89238FAD5 | 09/15/26 | 2.931% | 2.931% | $ 89,998 | $ 88,205 | (1,792) |
| 102 | GM Fin Cons Auto Rec TR 2021-4 A-3 | ABS / CMO | PFM | JPM_CHA | 362554AC1 | 09/16/26 | 0.680% | 0.681% | $ 79,246 | $ 76,591 | (2,654) |
| 103 | Citigroup Inc. Corporate Notes | Corporate Bonds | PFM | Citigroup Global Markets Inc. | 172967NX5 | 09/29/26 | 5.610% | 5.610% | $ 150,000 | $ 151,094 | 1,094 |
| 104 | WOART 2021-D A3 | ABS / CMO | PFM | WELLS_F | 98163KAC6 | 10/15/26 | 0.810% | 0.813% | $ 107,901 | $ 104,732 | (3,169) |
| 105 | US Treasury Notes | US Treasury Notes | PFM | BNP Paribas Securities Corp | 912828U24 | 11/15/26 | 2.000% | 4.060% | $ 857,648 | $ 874,486 | 16,837 |

**City of Yuba City**
**Monthly Investment Statement**
**City Held Investments**

**December, 2023**

| No. | Description of Security | Asset Type | IA | Broker | CUSIP NO. | Maturity Date | Coupon Rate | Yield to Maturity | Cost Basis | Estimated Market Value | Unrealized Gain/(Loss) |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 106 | COMET 2021-A3 A3 | ABS / CMO | PFM | BARCLAY | 14041NFY2 | 11/16/26 | 1.040% | 1.043% | $ 324,955 | $ 313,489 | (11,467) |
| 107 | Federal Home Loan Bank | Federal Agency | Insight | Wells Fargo Securities | 3130AQF65 | 12/21/26 | 1.250% | 4.122% | $ 625,591 | $ 643,559 | 17,968 |
| 108 | Target Corporation | Corporate Bonds | PFM | Citigroup Global Markets Inc. | 87612EBM7 | 01/15/27 | 1.950% | 1.990% | $ 39,932 | $ 37,319 | (2,613) |
| 109 | Microsoft Corp | Corporate Bonds | PFM | Marketaxess Corp | 594918BY9 | 02/06/27 | 3.300% | 4.360% | $ 673,813 | $ 681,751 | 7,938 |
| 110 | Berkshire Hathaway Financial Notes | Corporate Bonds | PFM | CSFB | 084664CZ2 | 03/15/27 | 2.300% | 2.690% | $ 417,261 | $ 401,965 | (15,296) |
| 111 | US Treasury Notes | US Treasury Notes | Insight | Bank of New York | 91282CEF4 | 03/31/27 | 2.500% | 4.404% | $ 795,716 | $ 812,379 | 16,663 |
| 112 | CARMAX 2022-3 A3 | ABS / CMO | PFM | RBC Capital Markets | 14318MAD1 | 04/15/27 | 0.000% | 3.970% | $ 209,995 | $ 207,205 | (2,790) |
| 113 | US Treasury Notes | US Treasury Notes | PFM | Bank of Montreal | 91282CEN7 | 04/15/27 | 2.750% | 3.730% | $ 841,572 | $ 841,671 | 99 |
| 114 | UnitedHealth Group | Corporate Bonds | PFM | Bank of America Sec | 91324PEG3 | 05/15/27 | 3.700% | 3.710% | $ 39,978 | $ 39,171 | (808) |
| 115 | NAROT 2022-B A3 | ABS / CMO | PFM | Wells Fargo Securities | 65480JAC4 | 05/17/27 | 4.580% | 4.460% | $ 174,964 | $ 173,703 | (1,261) |
| 116 | US Treasury Notes | US Treasury Notes | Insight | BNP Paribas | 91282CEW7 | 06/30/27 | 3.250% | 4.544% | $ 478,810 | $ 488,615 | 9,805 |
| 117 | US Treasury Notes | US Treasury Notes | PFM | Citigroup Global Markets, Inc. | 91282CFB2 | 07/31/27 | 2.750% | 3.510% | $ 2,523,016 | $ 2,546,643 | 23,627 |
| 118 | US Treasury Notes | US Treasury Notes | PFM | Citigroup Global Markets, Inc. | 91282CFB2 | 07/31/27 | 2.750% | 4.060% | $ 1,663,799 | $ 1,679,380 | 15,581 |
| 119 | US Treasury Notes | US Treasury Notes | PFM | Citigroup Global Markets, Inc. | 91282CFB2 | 07/31/27 | 2.750% | 4.150% | $ 2,463,805 | $ 2,486,877 | 23,072 |
| 120 | US Treasury Notes | US Treasury Notes | PFM | Bank of Montreal | 91282CFB2 | 07/31/27 | 2.750% | 4.420% | $ 1,385,751 | $ 1,398,728 | 12,977 |
| 121 | US Treasury Notes | US Treasury Notes | PFM | Morgan Stanley | 91282CFB2 | 07/31/27 | 2.750% | 4.550% | $ 1,568,873 | $ 1,583,565 | 14,692 |
| 122 | US Treasury Notes | US Treasury Notes | PFM | JP Morgan Chase | 91282CFZ9 | 11/30/27 | 3.875% | 4.770% | $ 1,063,133 | $ 1,078,777 | 15,645 |
| 123 | US Treasury Notes | US Treasury Notes | PFM | HSBC Securities | 91282CFZ9 | 11/30/27 | 3.875% | 4.200% | $ 3,755,617 | $ 3,810,884 | 55,266 |
| 124 | MBART 2022-1 A3 | ABS / CMO | PFM | Pershing LLC | 58768PAC8 | 08/16/27 | 5.210% | 5.210% | $ 349,931 | $ 350,483 | 552 |
| 125 | Buttes Vista 2002-1 AD, 2013 Refunding | City Held Bond | City | | | 09/02/27 | 2.730% | 2.730% | $ 177,822 | $ 177,822 | - |
| 126 | Apple Inc | Corporate Bonds | PFM | TD Securities | 037833DB3 | 09/12/27 | 2.900% | 3.940% | $ 286,863 | $ 287,262 | 399 |
| 127 | Apple Inc | Corporate Bonds | Insight | Credit Suisse NY | 037833DB3 | 09/12/27 | 2.900% | 4.135% | $ 473,730 | $ 478,770 | 5,040 |
| 128 | DCENT 2022-A4 A | Corporate Bonds | PFM | Citigroup Global Markets | 254683CX1 | 10/15/27 | 0.001% | 5.030% | $ 239,969 | $ 240,938 | 969 |
| 129 | Pepsico | Corporate Bonds | Insight | BofA Securities | 713448DY1 | 10/15/27 | 3.000% | 4.238% | $ 711,060 | $ 720,263 | 9,203 |
| 130 | Federal Farm Credit Bank | Federal Agency | Insight | Cantor Fitzgerald & Co | 3133EN5N6 | 01/06/28 | 4.000% | 3.891% | $ 433,099 | $ 430,573 | (2,526) |
| 131 | American Honda Finance | Corporate Bonds | Insight | Jefferies Jersey City | 02665WED9 | 01/12/28 | 4.700% | 4.341% | $ 608,940 | $ 605,052 | (3,888) |
| 132 | Bristol Myers Squibb | Corporate Bonds | PFM | Marketaxess Corp | 110122DE5 | 02/20/28 | 3.900% | 4.930% | $ 334,380 | $ 343,921 | 9,541 |
| 133 | Astrazeneca Finance | Corporate Bonds | PFM | BofA Securities | 04636NAF0 | 03/03/28 | 4.875% | 4.920% | $ 324,344 | $ 331,344 | 7,001 |
| 134 | Mastercard | Corporate Bonds | PFM | JP Morgan Securities LLC | 57636QAW4 | 03/09/28 | 4.875% | 4.900% | $ 324,685 | $ 334,987 | 10,303 |
| 135 | Federal Home Loan Bank | Federal Agency | Insight | Wells Fargo Charlotte, NC | 3130ATS57 | 03/10/28 | 4.500% | 4.114% | $ 1,017,260 | $ 1,023,650 | 6,390 |
| 136 | Nestle Holdings, Inc | Corporate Bonds | PFM | JP Morgan Securities LLC | 641062BF0 | 03/14/28 | 5.000% | 5.010% | $ 674,825 | $ 693,671 | 18,846 |
| 137 | Home Depot Inc Corporate Notes | Corporate Bonds | Insight | Goldman Sachs, NY | 437076CE0 | 03/15/28 | 0.900% | 4.193% | $ 511,974 | $ 524,760 | 12,786 |
| 138 | Merck & Co Inc Corp Notes | Corporate Bonds | PFM | Citigroup Global Markets | 58933YBH7 | 05/17/28 | 4.050% | 4.070% | $ 139,887 | $ 139,385 | (501) |
| 139 | US Treasury Notes | US Treasury Notes | Insight | Goldman Sachs, NY | 91282CCE9 | 05/31/28 | 1.250% | 3.991% | $ 1,228,395 | $ 1,250,648 | 22,253 |
| 140 | DCENT 2023-A2 A | Corporate Bonds | PFM | BofA Securities | 254683CZ6 | 06/15/28 | 0.000% | 4.930% | $ 349,953 | $ 352,671 | 2,718 |
| 141 | US Treasury Notes | US Treasury Notes | Insight | RBC Capital Markets | 912810FE3 | 08/15/28 | 5.500% | 4.751% | $ 722,504 | $ 748,286 | 25,782 |
| 142 | DCENT 2021-A1 A1 | ABS / CMO | PFM | CITIGRP | 254683CP8 | 09/15/28 | 5.500% | 4.751% | $ 249,946 | $ 241,855 | (8,091) |
| 143 | Staple/Ashley/Cornwell AD | City Held Bond | City | | | 09/02/30 | 6.000% | 6.000% | $ 69,309 | $ 69,309 | - |
| 144 | WWTP Solar System (DS, June 30) | City Held Bond | City | | | 06/30/33 | 4.000% | 4.000% | $ 1,405,736 | $ 1,405,736 | - |
| | | | | | | | | | | | - |
| | | | | | | | | | | | - |
| | **Total City Held Investments** | | | | | | | | **$ 142,931,633** | **$ 142,010,598** | **$ (921,034)** |

**City of Yuba City Investment Report**
**Investments Held By Trustees**
**December, 2023**

| No. | Description of Debt Issuance | Account Type | Description of Security | Maturity Date | Coupon Rate | Yield to Maturity | Cost Basis | Estimated Market Value | Unrealized Gain/(Loss) |
|---|---|---|---|---|---|---|---|---|---|
| 145 | 2013 Water Rev COP | Debt Service | Blackrock T-Fund | Daily | 5.230% | 5.230% | $ 311 | 311 | - |
| 146 | | Interest | Blackrock T-Fund | Daily | 0.000% | 0.000% | 0 | 0 | - |
| 147 | TABs Refunding - 2015 | Debt Service | Blackrock T-Fund | Daily | 5.230% | 5.230% | 2,258 | 2,258 | - |
| 148 | | Interest | Blackrock T-Fund | Daily | 5.230% | 5.230% | 12,075 | 12,075 | - |
| 149 | | Interest | Blackrock T-Fund | Daily | 0.000% | 0.000% | - | - | - |
| 150 | | Principal | Blackrock T-Fund | Daily | 5.230% | 5.230% | 1,103 | 1,103 | - |
| 151 | | Reserve | Blackrock T-Fund | Daily | 0.000% | 0.000% | 0 | 0 | - |
| 152 | | Reserve | Assured Guaranty | Daily | 0.000% | 0.000% | 1,870,568 | 1,870,568 | - |
| 153 | | Reserve | Blackrock T-Fund | Daily | 5.230% | 5.230% | 486,906 | 486,906 | - |
| 154 | Gauche Park Refunding - 2015 | Debt Service | Blackrock T-Fund | Daily | 5.230% | 5.230% | 135 | 135 | - |
| 155 | | Debt Service | Blackrock T-Fund | Daily | 0.000% | 0.000% | - | - | - |
| 156 | | Reserve | Assured Guaranty | Daily | 0.000% | 0.000% | 650,031 | 650,031 | - |
| 157 | CFD Refund 2015 | Debt Service | Blackrock T-Fund | Daily | 5.230% | 5.230% | 1,179 | 1,179 | - |
| 158 | | Reserve | Blackrock T-Fund | Daily | 5.230% | 5.230% | 43,534 | 43,534 | - |
| 159 | | I-Bank Paymnt | Blackrock T-Fund | Daily | 5.230% | 5.230% | 106 | 106 | - |
| 160 | Wastewater Revenue Bonds (CREBS) - 2017 | Bond | Blackrock T-Fund | Daily | 5.230% | 5.230% | 154 | 154 | - |
| 161 | Authority 2018 Wastewater Revenue Bonds | Bond | Blackrock T-Fund | Daily | 0.000% | 0.000% | - | - | |
| 162 | | Bond | Blackrock T-Fund | Daily | 4.980% | 4.980% | 538 | 538 | |
| 163 | | Project | First Am Treas Obl | Daily | 4.980% | 4.980% | 20,812 | 20,812 | |
| | **Total Trustee-Held Investments** | | | | | | **$ 3,089,711** | **$ 3,089,711** | **$ -** |

| | | | |
|---|---|---|---|
| **TOTAL CITY & TRUSTEE-HELD INVESTMENTS** | **$ 146,021,344** | **$ 145,100,309** | **$ (921,034)** |

I certify to the best of my knowledge: (i) That this statement reflecting all City investments is accurate and complete; (ii) That each investment conforms with the City's investment policies, as well as California's Government Code; and (iii) That sufficient cash flow liquidity is available to meet the next six months of estimated disbursements.

Signed: /s/ Spencer Morrison
Spencer Morrison, City Treasurer

Date: 2/21/2024

## City of Yuba City - Quarterly Investment Transaction Report
## December 2023 - Market Value Summary

| Account Types | Balance 9/30/2023 | Balance 12/31/2023 | Period Activity |
|---|---|---|---|
| **City Held Investments** | | | |
| Local Agency Investment Fund | $ 43,903,356 | $ 35,764,322 | $ (8,139,034) |
| California Asset Management Program | 12,604,785 | 12,782,354 | 177,569 |
| Cash/Money Market | 9,205,058 | 11,829,166 | 2,624,108 |
| Federal Agency Securities | 11,946,330 | 11,203,939 | (742,391) |
| US Treasuries | 43,587,136 | 45,990,209 | 2,403,073 |
| Certificates of Deposit | 1,049,560 | 1,049,560 | 0 |
| Corporate Bonds and Asset Backed Sec. | 20,552,820 | 20,657,610 | 104,790 |
| City-held Assessment Districts & Municipals | 1,919,611 | 1,921,519 | 1,908 |
| Supranationals | 798,195 | 811,919 | 13,724 |
| **Total City Held Investments** | **$ 145,566,851** | **$ 142,010,598** | **$ (3,556,252)** |
| **Trustee Held Investments** | | | |
| Water Refunding 2013 | $ 1,430 | $ 311 | $ (1,119) |
| TABs Refunding - 2015 | 2,366,412 | 2,372,910 | 6,498 |
| Gauche Park Refunding | 650,706 | 650,167 | (539) |
| Sunsweet CFD Refund | 46,338 | 44,819 | (1,519) |
| Wastewater Revenue Bonds - 2017 | 407 | 154 | (252) |
| Wastewater Revenue Bonds - 2018 | 21,608 | 21,350 | (259) |
| **Total Trustee Held Investments** | **3,086,901** | **3,089,711** | **$ 2,811** |
| **Total** | **$ 148,653,751** | **$ 145,100,309** | **$ (3,553,442)** |

**Investment Activity**
**October, November, December 2023**

| Description of Security | Broker | Settlement Date | Maturity Date | Trade Date | Activity Type | Coupon Rate | Yield to Maturity | Cost Basis |
|---|---|---|---|---|---|---|---|---|
| **SALES/REDEMPTIONS** | | | | | | | | |
| US Treasury Notes | | 10/02/23 | 09/30/23 | 09/30/23 | Matured | 1.375% | 1.742% | 640,226.79 |
| Fannie Mae | | 10/06/23 | 02/05/24 | 10/04/23 | Sold | 2.500% | 2.600% | 995,500.00 |
| Federal Farm Credit Banks | | 10/13/23 | 10/13/23 | 10/13/23 | Matured | 0.280% | 0.314% | 999,000.00 |
| Mercedes Benz Auto Receivables ABS | | 10/16/23 | 11/15/24 | 10/15/23 | Sold | 0.400% | 0.400% | 11,866.17 |
| Hyundai Auto Receivables ABS | | 10/16/23 | 01/15/26 | 10/15/23 | Sold | 0.380% | 0.380% | 9,919.80 |
| Hyundai Auto Receivables ABS | | 10/16/23 | 05/15/26 | 10/15/23 | Sold | 0.740% | 0.740% | 5,782.10 |
| Carmax Auto Owner ABS | | 10/16/23 | 06/15/26 | 10/15/23 | Sold | 0.550% | 0.550% | 7,690.48 |
| Mercedes Benz Auto Receivables ABS | | 10/16/23 | 06/15/26 | 10/15/23 | Sold | 0.460% | 0.460% | 9,642.54 |
| Toyota Auto Receivables ABS | | 10/16/23 | 06/15/26 | 10/15/23 | Sold | 1.230% | 1.230% | 10,009.02 |
| GM Fin Consolidated Auto Receivables ABS | | 10/16/23 | 06/16/26 | 10/16/23 | Sold | 0.480% | 0.480% | 5,485.07 |
| Capital One Prime ABS | | 10/16/23 | 09/15/26 | 10/15/23 | Sold | 0.770% | 0.770% | 6,695.12 |
| GM Fin Consolidated Auto Receivables ABS | | 10/16/23 | 09/16/26 | 10/15/23 | Sold | 0.680% | 0.680% | 5,440.47 |
| World Omni Auto Receivables ABS | | 10/16/23 | 10/15/26 | 10/15/23 | Sold | 0.810% | 0.810% | 7,830.35 |
| Honda Auto Receivables ABS | | 10/18/23 | 11/18/25 | 10/18/23 | Sold | 0.410% | 0.410% | 6,810.27 |
| Volkswagen Auto Loans ABS | | 10/20/23 | 06/22/26 | 10/20/23 | Sold | 1.020% | 1.020% | 8,776.01 |
| Honda Auto Receivables ABS | | 10/23/23 | 01/21/26 | 10/21/23 | Sold | 0.880% | 0.880% | 7,134.52 |
| US Treasury Notes | | 10/31/23 | 10/31/23 | 10/31/23 | Matured | 1.625% | 1.433% | 302,273.44 |
| Federal Farm Credit Banks | | 11/01/23 | 11/01/23 | 11/01/23 | Matured | 2.200% | 1.842% | 1,014,870.00 |
| Mercedes Benz Auto Receivables ABS | | 11/15/23 | 11/15/24 | 11/15/23 | Sold | 0.400% | 0.400% | 13,688.81 |
| Hyundai Auto Receivables ABS | | 11/15/23 | 01/15/26 | 11/15/23 | Sold | 0.380% | 0.380% | 9,524.45 |
| Hyundai Auto Receivables ABS | | 11/15/23 | 05/15/26 | 11/15/23 | Sold | 0.740% | 0.740% | 5,562.45 |
| Carmax Auto Owner ABS | | 11/15/23 | 06/15/26 | 11/15/23 | Sold | 0.550% | 0.550% | 7,569.66 |
| Mercedes Benz Auto Receivables ABS | | 11/15/23 | 06/15/26 | 11/15/23 | Sold | 0.460% | 0.460% | 10,176.52 |
| Toyota Auto Receivables ABS | | 11/15/23 | 06/15/26 | 11/15/23 | Sold | 1.230% | 1.230% | 10,101.83 |
| Capital One Prime ABS | | 11/15/23 | 09/15/26 | 11/15/23 | Sold | 0.770% | 0.770% | 6,506.98 |
| World Omni Auto Receivables ABS | | 11/15/23 | 10/15/26 | 11/15/23 | Sold | 0.810% | 0.810% | 7,647.66 |
| GM Fin Consolidated Auto Receivables ABS | | 11/16/23 | 06/16/26 | 11/16/23 | Sold | 0.480% | 0.480% | 5,121.62 |
| GM Fin Consolidated Auto Receivables ABS | | 11/16/23 | 09/16/26 | 11/16/23 | Sold | 0.680% | 0.680% | 5,181.92 |
| Honda Auto Receivables ABS | | 11/20/23 | 11/18/25 | 11/20/23 | Sold | 0.410% | 0.410% | 6,556.33 |
| Volkswagen Auto Loans ABS | | 11/20/23 | 06/22/26 | 11/20/23 | Sold | 1.020% | 1.020% | 9,433.22 |
| Honda Auto Receivables ABS | | 11/21/23 | 01/21/26 | 11/21/23 | Sold | 0.880% | 0.880% | 7,064.11 |
| US Treasury Notes | | 11/30/23 | 11/30/23 | 11/30/23 | Matured | 2.875% | 0.615% | 1,044,925.23 |
| US Treasury Notes | HSBC Securities | 12/07/23 | 06/30/24 | 12/06/23 | Sold | 3.000% | 3.490% | 3,174,144.53 |
| Mercedes Benz Auto Receivables ABS | | 12/15/23 | 11/15/24 | 12/15/23 | Sold | 0.400% | 0.400% | 13,657.33 |
| Hyundai Auto Receivables ABS | | 12/15/23 | 01/15/26 | 12/15/23 | Sold | 0.380% | 0.380% | 9,048.25 |
| Hyundai Auto Receivables ABS | | 12/15/23 | 05/15/26 | 12/15/23 | Sold | 0.740% | 0.740% | 5,287.06 |
| Carmax Auto Owner ABS | | 12/15/23 | 06/15/26 | 12/15/23 | Sold | 0.550% | 0.550% | 7,213.27 |
| Mercedes Benz Auto Receivables ABS | | 12/15/23 | 06/15/26 | 12/15/23 | Sold | 0.460% | 0.460% | 9,484.41 |
| Toyota Auto Receivables ABS | | 12/15/23 | 06/15/26 | 12/15/23 | Sold | 1.230% | 1.230% | 9,632.51 |
| Capital One Prime ABS | | 12/15/23 | 09/15/26 | 12/15/23 | Sold | 0.770% | 0.770% | 6,310.58 |
| World Omni Auto Receivables ABS | | 12/15/23 | 10/15/26 | 12/15/23 | Sold | 0.810% | 0.810% | 7,614.76 |
| Honda Auto Receivables ABS | | 12/18/23 | 11/18/25 | 12/18/23 | Sold | 0.410% | 0.410% | 6,247.08 |
| GM Fin Consolidated Auto Receivables ABS | | 12/18/23 | 06/16/26 | 12/16/23 | Sold | 0.680% | 0.680% | 4,977.40 |
| GM Fin Consolidated Auto Receivables ABS | | 12/18/23 | 06/16/26 | 12/16/23 | Sold | 0.480% | 0.480% | 4,914.32 |
| GM Fin Consolidated Auto Receivables ABS | | 12/20/23 | 07/21/25 | 12/20/23 | Sold | 0.500% | 0.500% | 232.07 |
| Volkswagen Auto Loans ABS | | 12/20/23 | 06/22/26 | 12/20/23 | Sold | 1.020% | 1.020% | 8,706.57 |
| Honda Auto Receivables ABS | | 12/21/23 | 01/21/26 | 12/21/23 | Sold | 0.880% | 0.880% | 6,673.28 |
| | **Total Sales/Redemptions** | | | | | | | **$ 8,478,156** |
| **PURCHASES** | | | | | | | | |
| US Treasury Notes | RBC Capital Markets LLC | 10/03/23 | 08/15/28 | 10/02/23 | Buy | 5.500% | 4.751% | 722,503.91 |
| US Treasury Notes | JP Morgan Securities | 10/06/23 | 11/30/27 | 10/04/23 | Buy | 3.875% | 4.770% | 1,063,132.81 |
| Freddie Mac | Wells Fargo Securities | 10/13/23 | 02/12/25 | 10/12/23 | Buy | 1.500% | 5.280% | 951,970.00 |
| Federal Farm Credit Banks | Wells Fargo Securities | 11/01/23 | 03/02/26 | 10/30/23 | Buy | 4.500% | 5.060% | 1,086,581.10 |
| US Treasury Notes | Bank of New York | 11/30/23 | 12/31/25 | 11/27/23 | Buy | 2.625% | 4.834% | 526,175.67 |
| US Treasury Notes | BNP Paribas | 11/30/23 | 06/30/27 | 11/27/23 | Buy | 3.250% | 4.544% | 478,810.27 |
| US Treasury Notes | Morgan Stanley | 09/15/23 | 07/31/27 | 09/15/23 | Buy | 2.750% | 4.550% | 1,568,873.05 |
| US Treasury Notes | HSBC Securities | 12/07/23 | 11/30/27 | 12/06/23 | Buy | 3.875% | 4.200% | 3,755,617.19 |
| | **Total Purchases** | | | | | | | **$ 10,153,664** |

CITY OF YUBA CITY
STAFF REPORT

**Date:** March 5, 2024
**To:** Honorable Mayor & Members of the City Council;
**From:** Public Works
**Presentation By:** Ben Moody, Public Works & Development Services Director

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**Summary**

**Subject:** Merriment Village - Cooperative Agreement for Grant Application

**Recommendation:** Adopt a Resolution authorizing the Mayor to enter into a Cooperative Agreement with Habitat for Humanity Yuba/Sutter, Inc. for the Affordable Housing and Sustainable Communities Program, subject to review and approval by the City Attorney

**Fiscal Impact:** Staff time associated with grant application support with the potential to receive grant funding for City infrastructure improvements.

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**Purpose:**

To assist Habitat for Humanity Yuba/Sutter with meeting the requirements of the Affordable Housing and Sustainable Communities (AHSC) Program grant application while potentially receiving grant funding for City infrastructure.

**Council's Strategic Goal:**

This project addresses two City Council Strategic Goals, as the proposed grant application support contributes to a business-friendly environment, while funding from a potential grant award would lead to improved City infrastructure.

**Background:**

On September 19, 2023, Council approved Development Plan 23-02, Merriment Village Apartments, subject to conditions of approval, for the development of a 218-unit income-based (affordable) apartment complex located on a 7.7-acre parcel at 428 North Walton Avenue.

On February 20, 2024, Council authorized a joint application with Habitat for Humanity Yuba/Sutter, Inc. to apply for Homekey 3.0 funds through the State Department of Housing and Community Development (HCD) for Phase 1 of the project, consisting of 79 units.

Habitat for Humanity has notified City staff that HCD has issued a Notice of Funding Availability dated January 19, 2024, through the Affordable Housing and Sustainable Communities (AHSC) Program. Habitat for Humanity is applying for a grant from the AHSC Program for development of Phase 2.

The AHSC Program Guidelines require applicants to provide evidence of at least two prior projects that

are similar to the proposed AHSC project in scope and size, which have been completed by the applicant during the ten years preceding the application due date. This section of the Guidelines also states that the applicants may demonstrate the requisite experience by using the past experience of work completed by a Locality or Transportation Agency non-applicant (e.g., the City) so long as the applicant can provide an executed agreement with that specific non-applicant for the completion of the related work in the Application for which funding is sought.

In 2021, the City entered into a similar Cooperation Agreement with the Regional Housing Authority and Sutter Community Affordable Housing on an AHSC grant application for Richland Village.

**Analysis:**

Habitat for Humanity Yuba/Sutter is requesting the City cooperate on the submittal of the AHSC grant application by committing to constructing the following infrastructure improvements within 5 years:

- Sidewalks on the west side of Walton Avenue between Franklin Avenue and Stoker Avenue.
- Class 2 bike lanes on the west side of Harding Road between Franklin Road and Cherry Street.
- Class 2 bike lanes on the north side of Cherry Street between Harding Road and Sanborn Road.
- Class 2 bike lanes on the west side of Sanborn Road between Cherry Street and Lincoln Road.

The City would not be a direct applicant for the AHSC funds. However, the AHSC program requires the City and the applicant to enter into a Cooperative Agreement in order for the City to utilize any funds awarded. A draft agreement (Attachment 1, Exhibit A) has been prepared, but must be reviewed and approved by the City Attorney prior to signing. If no grant funding is obtained, the agreement would automatically terminate.

**Fiscal Impact:**

There will be minimal staff time associated with supporting the grant application. If the grant application is successful, the City will receive approximately $2,056,000 toward the completion of sidewalks and bike lanes.

**Alternatives:**

Do not authorize the Mayor to execute a Cooperative Agreement with Habitat for Humanity.

**Recommendation:**

Adopt a Resolution authorizing the Mayor to enter into a Cooperative Agreement with Habitat for Humanity Yuba/Sutter, Inc. for the Affordable Housing and Sustainable Communities Program, subject to review and approval by the City Attorney.

**Attachments:**

1. Resolution - Merriment Village Cooperative Agreement
2. Exhibit A - Draft Cooperative Agrement

| Prepared By: | Submitted By: |
|---|---|
| Kevin Bradford | Diana Langley |
| Deputy Public Works Director - Engineering | City Manager |

# ATTACHMENT 1

**RESOLUTION NO. _____**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH HABITAT FOR HUMANITY YUBA/SUTTER, INC. FOR THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM**

WHEREAS, on September 19, 2023, Council approved Development Plan 23-02, Merriment Village Apartments, subject to conditions of approval, for the development of a 218-unit income-based (affordable) apartment complex located on a 7.7-acre parcel at 428 North Walton Avenue; and

WHEREAS, on February 20, 2024, Council authorized a joint application with Habitat for Humanity Yuba/Sutter, Inc. to apply for Homekey 3.0 funds through the State Department of Housing and Community Development (HCD) for Phase 1 of the project, consisting of 79 units; and

WHEREAS, Habitat for Humanity, Inc. has notified City staff that HCD has issued a Notice of Funding Availability dated January 19, 2024, through the Affordable Housing and Sustainable Communities (AHSC) Program; and

WHEREAS, Habitat for Humanity, Inc. is applying for a grant from the AHSC Program for development of Phase 2; and

WHEREAS, the AHSC Program Guidelines require applicants to provide evidence of at least two prior projects that are similar to the proposed AHSC project in scope and size, which have been completed by the applicant during the ten years preceding the application due date. This section of the Guidelines also states that the applicants may demonstrate the requisite experience by using the past experience of work completed by a Locality or Transportation Agency non-applicant (e.g., the City) so long as the applicant can provide an executed agreement with that specific non-applicant for the completion of the related work in the Application for which funding is sought; and

WHEREAS, the City has entered into a similar Cooperation Agreement with the Regional Housing Authority and Sutter Community Affordable Housing on an AHSC grant application for Richland Village.

NOW, THEREFORE, be it resolved by the City Council of the City of Yuba City as follows:

1. The City Council finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.

2. The City Council hereby authorizes the Mayor to enter into a Cooperative Agreement with Habitat for Humanity Yuba/Sutter, Inc. for the Affordable Housing and Sustainable Communities Program, in substantial conformance with the draft Cooperative Agreement attached as Exhibit A, subject to review and approval by the City Attorney.

3. This Resolution shall become effective immediately.

The foregoing resolution was duly and regularly introduced, passed, and adopted by the City

Council of the City of Yuba City at a regular meeting thereof held on the 5th day of March, 2024.

AYES:

NOES:

ABSENT:

_____
Shon Harris, Mayor

ATTEST:

_____
Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

_____
Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

Exhibit A – Draft Cooperative Agreement

# EXHIBIT A

**COOPERATIVE AGREEMENT BETWEEN THE CITY OF YUBA CITY AND HABITAT FOR HUMANITY YUBA/SUTTER FOR THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES PROGRAM**

This Cooperative Agreement ("Agreement") is entered into as of the ___ day of _____ 2024, between the City of Yuba City ("City") and Habitat for Humanity Yuba/Sutter ("Developer") each of which is referred to herein individually as "Party" and jointly as "Parties".

**RECITALS**

**WHEREAS,** The State of California, Department of Housing and Community Development (HCD) issued a Notice of Funding Availability dated January 19, 2024 (NOFA), under the Affordable Housing and Sustainable Communities (AHSC) Program; and

**WHEREAS** the Developer is applying for an award from the AHSC Program, with a total amount not to exceed $_____, for the purpose of development of the Merriment Village Housing Project Phase II ("Project"), which includes a request for $_____ for the purpose putting in 3,500 linear of new continuous sidewalk where none currently exists within 1-mile of 425 N Walton ("Continuous Sidewalk") for the Merriment Village Project located at 428 North Walton Avenue,Yuba City CA.

**Whereas** the City and Developer wish to cooperate on the submittal of the Application to allow the City to receive this AHSC Program funding for the Project; and

**WHEREAS** the City is not a direct applicant for the AHSC funds, but, as set forth herein, if and only if the Application is funded, will utilize; and

**WHEREAS**, as the City is not a direct applicant of the funds, the AHSC Program requires the City and Developer to enter into this Agreement under the specific AHSC Program Threshold Requirement stated in Section 106 (a) (12) of the Round 8 AHSC Program Guidelines dated December 14, 2023; and

**WHEREAS** Section 106 (b) (7) of the AHSC Program Guidelines requires applicants to provide evidence of at least two prior projects that are similar to the proposed AHSC project in scope and size, which have been completed by the applicant, or joint applicant, during the ten (10) years preceding the application due date. This section of the Guidelines also states that the applicants may demonstrate the requisite experience by using the past experience of work completed by a Locality or Transportation Agency non-applicant so long as the applicants can provide an executed agreement with that specific non-applicant for the completion of the related work in the Application for which funding is sought; and

**NOW, THEREFORE**, the Parties to this Agreement agree as follows:

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I. City Responsibilities

If a grant award is received from the AHSC Program in the amount of $_____ for the purpose of funding development costs of the active transportation components of the Project ("Continuous Sidewalk") that are eligible under AHSC guidelines, the City will have the sole responsibility to develop the Continuous Sidewalk in accordance with the agreed upon schedule of performance and any specific award requirements related to the development of the Project.

II. Developer Responsibilities

If a grant award is received from the AHSC Program, the Developer will have sole responsibility to complete the Project in accordance with the terms of the AHSC award documents.

III. Joint Responsibilities

All Parties will provide the other Party with copies of the notice of completion, and other documents related to their respective work that the other Party may reasonably request, including quarterly progress reports on the Party's work.

The City and Developer each acknowledge and agree that the inability or failure by any Party to fully and timely meet each Party's respective responsibilities as required by the AHSC award documents may affect the timing and right of the other Party to receive disbursement of AHSC funds.

IV. Implementation Agreements

In the event a grant award is received from the AHSC Program, the City and the Developer recognize that each Party may need additional assurances from the other (including assurances for the Project's lenders and investors) regarding the specific grant award before commencement of construction of the Project. The Parties agree to cooperate in amending this Agreement and/or entering into Implementation Agreements or other documents necessary to provide reasonable assurances and indemnifications related to the development of the Project and disbursement of grant funds. The Parties recognize that any such amendments to this Agreement or execution of additional agreements may require approval of the City Council and the Developer's Board of Directors.

V. Miscellaneous

A. Waiver. No waiver of any default or breach of any covenant of this Agreement by any Party will be implied from any omission by any Party to act on account of such default if such default persists or is repeated. Express waivers are limited in

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scope and duration to their express provisions. Consent to one action does not imply consent to any future action.

B. Events of Default. The occurrence of any of the following events shall constitute an Event of Default under this Agreement:

(i) A Party fails to perform any of its obligations under this Agreement and does not cure or set forth a plan of action to cure such failure within 30 days after written notice of such failure has been delivered to the defaulting Party; or

(ii) A Party purports to revoke this Agreement or this Agreement becomes ineffective for any reason. Upon an Event of Default, any Party may terminate this Agreement as to the defaulting Party by giving notice to the other Party.

C. Termination. This Agreement shall terminate upon the earlier of:

(i) Failure to receive an AHSC award, or

(ii) Mutual written Agreement of the Parties hereto to terminate the Agreement, or

(iii) Termination pursuant to paragraph (V) (B), above.

D. Assignment. No Party can assign, transfer, or otherwise substitute its interest or obligations under this Agreement without the written consent of the other Party. Notwithstanding the foregoing, the Parties acknowledge that Developer intends to form a limited partnership for the development and operation of the Project (the "Partnership"), and the Parties hereby agree that Developer may assign its interest or obligations under this Agreement to said Partnership, provided the managing general partner of such limited partnership is controlled by Developer.

E. Governing Law. This Agreement is governed by the laws of the State of California as applied to contracts that are made and performed entirely in California and any action shall be a venue in the County of Sutter.

F. Amendments. This Agreement may only be amended in writing and must be executed by both Parties.

G. Disputes. If a question arises regarding interpretation of this Agreement or its performance, or the alleged failure of a Party to perform, the Party raising the question or making the allegation must give written notice thereof to the alleged breaching Party. The Parties will promptly meet in an effort to resolve the issues raised. If the Parties fail to resolve the issues raised, alternative forms of dispute resolution, including mediation or binding arbitration, may be pursued by mutual Agreement. It is the intent of the Parties, to the extent possible, that litigation be avoided as a method of dispute resolution.

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H. Attorneys' Fees. In the event legal proceedings are instituted to enforce any provision of this Agreement, the prevailing Party or Parties in said proceedings will be entitled to its costs, including reasonable attorneys' fees, in addition to such other remedies to which it may be entitled.

I. Warranty of City to Execute Agreement. Each Party to this Agreement represents and warrants that each person whose signature appears hereon is duly authorized and has the full City to execute this Agreement on behalf of the entity that is a Party to this Agreement.

J. Severability. If any portion of this Agreement, or the application thereof, is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining portions of this Agreement or the application thereof, will remain in full force and effect.

K. Counterparts. This Agreement may be executed in counterparts.

L. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties pertaining to its subject matter and supersedes any prior or contemporaneous written or oral Agreement between the Parties on the same subject.

M. Notices. Formal notices, demands, and communications between the Parties shall be sufficiently given if, and shall not be deemed given unless, dispatched by registered or certified mail, postage prepaid, return receipt requested; or delivered by express delivery service, return receipt requested, or delivered personally, to the principal offices of the Parties as follows:

**CITY:**

City of Yuba City
1201 Civic Center Blvd.
Attn: _____
{Contact Email}
{Contact Phone}

**DEVELOPER:**

Habitat for Humanity Yuba/Sutter Inc.
202 D Street, Marysville, CA 95901
Attn: Joseph Hale, CEO
Jhale@yubasutterhabitat.org
503-845-8354

Each of the undersigned hereby executes this Agreement in the spaces provided below to evidence their respective agreement to the terms of this Agreement.

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IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first noted above.

**City of Yuba**

_____ _____

By: _____ Date

**Habitat for Humanity Yuba/Sutter**

_____ _____

By: Joseph Hale, CEO Date

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CITY OF YUBA CITY
STAFF REPORT

**Date:** March 5, 2024

**To:** Honorable Mayor & Members of the City Council;

**From:** Development Services Department

**Presentation By:** Doug Libby, Deputy Director of Development Services

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**Summary**

**Subject:** Consideration of a Development Agreement for the West Railroad Village Tentative Subdivision Map (TSM) 23-02

**Recommendation:** A. Conduct a Public Hearing; then

B. Introduce an Uncodified Ordinance of the City Council of the City of Yuba City approving Environmental Assessment 23-07 by Adopting a Mitigated Negative Declaration prepared for Tentative Subdivision Map (TSM) 23-02, West Railroad Village Subdivision and approving a Development Agreement between the City of Yuba City and Junior S. Thiara, an individual, for the West Railroad Village Subdivision (TSM 23-02), on 4.8 acres located on the west side of Railroad Avenue approximately 200 feet south of the intersection of Railroad Avenue and Bogue Road (Assessor's Parcel Number 55-240-002) by title only and waive the first reading

**Fiscal Impact:** The cost for processing land use entitlements is funded by the project applicant through the payment of application fees

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**Purpose:**

Consideration to approve a Development Agreement for the West Railroad Subdivision (TSM) 23-02 and the associated Mitigated Negative Declaration.

**Council's Strategic Goal:**

This item meets the City Council's strategic goal of business friendly.

**Background:**

The applicant, Junior S. Thiara, filed an application for Tentative Subdivision Map SM 23-02, West Railroad Subdivision.

On January 24, 2024, the Yuba City Planning Commission conducted a Public Hearing, and the Planning Commission voted to:

1. Adopt Resolution PC 24-01 contingently approving TSM 23-02; and
2. Adopt Resolution PC 24-02 recommending approval of Environmental Assessment 23-07 and

the associated Development Agreement.

**Analysis:**

Tentative Subdivision Map (TSM) 23-02, West Railroad Village, divides 4.8-acres into 27 total lots (21 duplex lots and 6 single-family residential lots, for a total of 48 new residences. The site, which is currently developed with an orchard, is located within the approved Bogue-Stewart Master Plan (BSMP) area. The subdivision will be served by an internal road system that will access Railroad Avenue and is designed to connect with property to the south when it urbanizes at some point in the future to provide additional connectivity.

***Variations to the BSMP Residential Development Standards***

The BSMP detailed development standards for all types of uses ensure consistent quality and predictable framework for residential development. The Plan includes a provision for the Development Services Director to make minor modifications to the standards as long as the resulting neighborhood is in substantial conformance with the overall intent of the Ordinance. The applicant proposes to make several minor lot modifications to the BSMP residential development standards as follows:

| Proposed Revised BSMP R-2 Zoning Development Standards | | | | |
|---|---|---|---|---|
| | Lots under 2,999 square feet | | Lots 3,000 square feet or greater | |
| | Existing | Proposed | Existing | Proposed |
| **Minimum front yard** | 12 feet | 15 feet | No change | |
| **Interior side yard** | 3 feet | 5 feet w/exceptions for fireplace, media center | 5 feet | 5 feet w/exceptions for fireplace, media center |
| **Street side yard (corner lots)** | 10 feet but 18.5 feet for garage driveway | 10 feet but 18.5 feet for garage driveway | 10 feet but 18.5 feet for garage driveway | 10 feet but 18.5 feet for garage driveway |

These changes are considered minor, designed to fit the characteristics of this property, and should not generate any issues for the development of neighboring properties.

***Availability of City services:***

As this property is within the City limits, all City services will be extended to the property to serve future residents. Infrastructure is not currently in place for development to commence immediately. It is hoped that with the revisions made to the Newkom Ranch Development Agreement that were recently approved by the City Council, this will facilitate bringing needed infrastructure to allow development to commence. A full detail of the work necessary to allow development to commence can be found in the Planning Commission staff report included as an attachment to this report.

***Development Agreement***

The proposed Development Agreement that accompanies this subdivision is beneficial to both the developer and the City. The agreement provides the developer with an approved tentative subdivision map that has 10 years to allow infrastructure to be extended to allow development and the 10-year term may be extended upon mutual consent of both parties.

For the City, the Development Agreement's public benefit is the developer will pay an additional neighborhood park development impact fee in the amount of $2,300 per multiple-family residence and $3,200 per single-family residence. This is in addition to the standard Park and Recreation development impact fee. This fee is subject to increase due to inflation, and will allow the City to provide more neighborhood parks throughout the City than would otherwise not be available.

**Environmental Considerations:**

An environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of requests for comments from other responsible and affected agencies and interested organizations.

Environmental Assessment 23-07 was prepared for this project with reliance on the previously adopted environmental impact report prepared for the BSMP. The list of identified mitigation measures relevant to this project were taken from the BSMP EIR. Staff has determined there is no evidence in the record the project will generate any new significant effects on the environment not previously discussed and analyzed in the BSMP EIR and recommends adoption of a mitigated negative declaration for the proposed development agreement. The findings of the mitigated negative declaration are that, with the relevant mitigations adopted from the BSMP EIR for Air Quality, Biological Resources, Cultural Resources, Greenhouse Gases, Hazards and Hazardous Materials, Noise, Transportation/Traffic, Tribal Cultural Resources, and Utilities and Services, the proposed subdivision and development agreement will not create new significant impacts to the neighborhood or vicinity that were not previously addressed in the BSMP EIR. As a result, the filing of a mitigated negative declaration is appropriate in accordance with the provisions of CEQA.

A complete copy of Environmental Assessment 23-07 can be accessed on the City website at:
https://www.yubacity.net/cms/One.aspx?portalId=239258&pageId=18737559&action=viewf Yuba City

**Fiscal Impact:**

The cost for processing land use entitlements is funded by the project applicant fees as adopted by the City Council.

**Alternatives:**

1. Deny the proposed Development Agreement associated with West Railroad Village Subdivision.
2. Provide staff with alternate direction.

**Recommendations:**

A. Conduct a Public Hearing; then

B. Introduce an Uncodified Ordinance of the City Council of the City of Yuba City approving Environmental Assessment 23-07 by Adopting a Mitigated Negative Declaration prepared for Tentative Subdivision Map (TSM) 23-02, West Railroad Village Subdivision and approving a Development Agreement between the City of Yuba City and Junior Thiara for the West Railroad Village Subdivision (TSM 23-02), on 4.8 acres located on the west side of Railroad Avenue approximately 200 feet south of the intersection of Railroad Avenue and Bogue Road (Assessor's Parcel Number 55-240-002) by title only and waive the first reading.

**Attachments:**

1. City Council Uncodified Ordinance
2. West Railroad Village Planning Commission Staff Report Packet, January 24, 2024

| Prepared By: | Submitted By: |
| --- | --- |
| Doug Libby, AICP | Diana Langley |
| Deputy Development Services Director | City Manager |

# ATTACHMENT 1

**ORDINANCE NO._____**

**AN UNCODIFIED ORDINANCE OF THE CITY OF YUBA CITY APPROVING A DEVELOPMENT AGREEMENT FOR THE WEST RAILROAD VILLAGE TENTATIVE SUBDIVISION MAP (TSM 23-02) BETWEEN THE CITY OF YUBA CITY AND JUNIOR S. THIARA, AN INDIVIDUAL, TO DEVELOP 27 LOTS ON 4.8-ACRES LOCATED ON THE WEST SIDE OF RAILROAD AVENUE APPROXIMATELY 200 FEET SOUTH OF BOGUE ROAD; ASSESSORS PARCEL NUMBER 055-240-002**

**WHEREAS,** Government Code Section 65864 et seq. authorizes the City to enter into development agreements with any person having a legal or equitable interest in real property, which interest Developer has in the affected property; and

**WHEREAS,** Sections 65864-65869.5 of the California Government Code authorize the City to enter into development agreements and requires the planning agency of the City to find the proposed development agreement to be consistent with the policies and programs of the General Plan and any applicable specific plan, which the Planning Commission has done; and

**WHEREAS,** the City received an application from Junior S. Thiara for TSM 23-02 to divide approximately 4.8 acres into 21 duplex lots and six single-family residential lots which would be at a density of approximately 10 residences per acre, and an associated Development Agreement (collectively "Project"). All of the new residential lots will be provided full City services; and

**WHEREAS,** this property was recently annexed into Yuba City's city limits and the property owner wished to develop their property to urban levels; and

**WHEREAS,** pursuant to the authority and criteria contained in the California Environmental Quality Act of 1970 ("CEQA"), with the City, as the Lead Agency, the Planning Commission reviewed related Environmental Assessment 23-07 which was prepared for TSM 23-02 and this Development Agreement, resulting in a determination of a Mitigated Negative Declaration (MND) prepared for the Project, which concluded that this Project, with new mitigations as well as mitigations from the previously approved EIR for the Bogue-Stewart Master Plan (BSMP), will not generate any new significant environmental impacts not previously considered and analyzed in the BSMP EIR; and

**WHEREAS,** a review of the General Plan, BSMP, and Zoning Regulations determined that the proposed subdivision and development agreement are consistent with all General Plan Elements and meets all policies and programs established by the BSMP and the Zoning Regulations; and

**WHEREAS**, on January 24, 2024, the Planning Commission conducted a duly noticed public hearing and considered Environmental Assessment (EA) 23-07 considering a Mitigated Negative Declaration (MND) prepared for the project, which provides mitigations that reduce potentially significant impacts to a less than significant level on TSM 23-02 and the Development Agreement. All interested parties were given an opportunity to be heard and present evidence regarding the proposed project, including the development agreement; and

**WHEREAS**, after deliberation and consideration of all relevant items, the Planning Commission adopted Resolution No. PC 24-01, approving TSM 23-02 contingent upon the City

Council adopting an uncodified ordinance approving the Development Agreement. Additionally, the Planning Commission adopted Resolution No. PC 24-02, recommending approval of a development agreement between Junior S. Thiara, an individual, and the City of Yuba City. Additionally, the Planning Commission recommended the City Council authorize the Director, or designee, to execute and file with the Sutter County Clerk, as appropriate, a Notice of Determination for approval of the project that complies with the CEQA Guidelines.

**NOW, THEREFORE,** the City Council of the City of Yuba City does ordain as follows:

1. Recitals: The City Council hereby finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.

2. CEQA Finding. The City Council finds and determines, that there is no substantial evidence in the record that TSM 23-02 and the associated Development Agreement may have a significant effect on the environment beyond what was considered and analyzed in the Bogue-Stewart Master Plan (BSMP) EIR as identified by the MND prepared in Environmental Assessment 23-07. The City Council finds and determines that an environmental assessment/initial study was prepared for this Project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines and reflects the City Council's independent judgment and analysis. The process included the distribution of requests for comments from other responsible or affected agencies and interested organizations. Preparation of Environmental Assessment 23-07 necessitated a thorough review of the proposed Project and relevant environmental issues and considered the previously prepared BSMP EIR. While the proposed Project could have a potentially significant effect on the environment, based on its independent judgment and analysis the City Council finds that feasible mitigation measures or alternatives have been incorporated into the Project in order to avoid the effects to a point where clearly no significant effect on the environment will occur beyond those determined in the EIR prepared for the BSMP. The Project-specific mitigation measures included in the Project to avoid potentially significant effects are set forth in the Initial Study/Mitigated Negative Declaration and accompanying Mitigation Monitoring and Reporting Program. With the Project specific mitigations imposed, there is no substantial evidence in the record that this Project may have significant direct, indirect, or cumulative effects on the environment beyond those which were identified and analyzed in the BSMP EIR.

3. Adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Based on the foregoing, the City Council adopts the Mitigated Negative Declaration prepared for the Project, including the associated Mitigation Monitoring and Reporting Program, as the Project will not result in any significant, adverse environmental impacts with the mitigations proposed beyond those identified and analyzed in the BSMP EIR. The Yuba City Development Services Department is located at 1201 Civic Center Boulevard, Yuba City, CA 95993, and is designated as the custodian of the documents and other materials that constitute the record of the proceedings upon which the decision is based. The City Council authorizes the Director, or designee, to execute and file with the Sutter County Clerk, as appropriate, a Notice of Determination for approval of the Project that complies with the CEQA Guidelines.

4. Development Agreement Findings. Pursuant to the Government Section Code 65864 through 65869.5 and in light of the record before it, including the staff report and all attachments, and all evidence and testimony heard at the public hearing for this item, and in light of all evidence

and testimony provided in connection with the entitlements for the West Railroad Village Subdivision, the Planning Commission recommends the City Council make the following findings pertaining to the Development Agreement.

a. *The proposed Development Agreement is consistent with the goals and policies of the General Plan, its purposes, and applicable Specific Plan(s).*

   Evidence: The proposed subdivision creating 21 duplex lots and six single-family residential lots is consistent with the land use pattern adopted as part of the BSMP. The Project's overall density of approximately 10 residences per acre is consistent with the General Plan Land Use Element and BSMP that provides for a density range of 6-14 dwellings per acre for the Medium-Density Residential (MDR) land use designation. Consistent with the General Plan and BSMP policies, this development will pay development impact fees to contribute to the City's Park system. The proposed Project is consistent with the intent of the BSMP, and has designed residential streets with sidewalks, planting strips and traffic calming elements to create a pedestrian-friendly environment.

b. *The Development Agreement is consistent with and furthers a number of goals and objectives identified in the City's General Plan.*

   Evidence: This Project is consistent with the City's General Plan goals and policies including the established density ranges for MDR designated land. The Project is conditioned to meet all City development and improvement standards including water, wastewater, stormwater drainage systems, street cross-sections, streetscape landscaping, and park facilities or applicable in-lieu fees. The proposed Project will be subject to compliance with BSMP R-2 development standards.

   Overall, the Project proposed by the Development Agreement represents a productive use of site that will be compatible with surrounding anticipated future neighboring uses and offers Yuba City residents new residential opportunities that will support retail, entertainment, and employment uses in the City.

c. *Water Supply Assessment.*

   Evidence: A water supply assessment required by California Government Code Section 66473.7 (a) (1) was prepared as part of the BSMP EIR and determined that between the use of water withdrawn from the Feather River and city operated wells, there will be a need for additional City water well(s) for which a mitigation measure is applied that requires all BSMP development to pay a fair-share towards the well's cost. With implementation of that mitigation measure there will be an adequate long term water supply.

5. Approval of Development Agreement. For the foregoing reasons and based on the information contained in the Planning Commission and City Council staff reports, supporting documentation, minutes and other records of proceedings, all of which are incorporated herein by this reference, the City Council hereby adopts this ordinance and approves the proposed Development Agreement which is attached hereto as Exhibit "A" and incorporated herein by this reference.

6. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

7. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it to be published, in accordance with Government Code Section 36933, or as otherwise required by law.

8. Effective Date. This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage and adoption.

**I HEREBY** CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the 5th day of March 2024, and adopted the Ordinance after the second reading at a regular meeting held on the day of _____, 2024, by the following roll call vote:

Ayes:

Noes:

Absent:

Recused:

_____
Shon Harris, Mayor

ATTEST:

Ciara Wakefield, City Clerk Administrator

APPROVED AS TO FORM:

_____
Shannon L. Chaffin, City Attorney
Aleshire & Wynder, LLP

Exhibit A: Development Agreement

I, _____, City Clerk of the City of Yuba City, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of Yuba City on the date and by the vote indicated herein.

# EXHIBIT A

**A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF YUBA CITY AND JUNIOR S. THIARA, AN INDIVIDUAL, RELATIVE TO THE DEVELOPMENT KNOWN AS THE WEST RAILROAD VILLAGE SUBDIVISION, TSM 23-02**

Recording Requested by:

Development Services Department
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA

**When Recorded Mail To**:

City Clerk
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

DOCUMENT WILL BE RETURNED TO NAME &. ADDRESS IDENTIFIED ABOVE

[Space Above for Recorder's Use]

# DEVELOPMENT AGREEMENT

by and between

**JUNIOR S. THIARA**
An Individual

and

**CITY OF YUBA CITY**
A General Law City

(West Railroad Village Development Agreement)

**DEVELOPMENT AGREEMENT**
by and between

**JUNIOR S. THIARA**
An Individual

and

**CITY OF YUBA CITY,**
A General Law City

(West Railroad Village Development Agreement)

THIS DEVELOPMENT AGREEMENT dated _____, 2024 (Effective Date), at Yuba City, California (hereinafter referred to as "Agreement"), is entered into by and between Junior S Thiara, a married man, as his sole and separate property (hereinafter referred to as "West Railroad Village Landowner," "Landowner" or "Developer") and the City of Yuba City, a general law city, created and existing under the laws of the State of California (hereinafter referred to as "the City"), pursuant to the authority of Sections 65864 through 65869.5 of the Government Code of the State' of California.

## RECITALS

**A. State Authorization**. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864 *et seq*. of the Government Code (the "Development Agreement Statute"), which authorizes the City to enter into a binding property development agreement with any person having a legal or equitable interest in real property for the development associated with such property in order to establish certain development rights in the property which is the subject of the development project application.

**B. City Procedure and Requirements**. The City has implemented the provisions of Government Code Section 65864 *et seq*. and is authorized to enter into development agreements with persons having legal or equitable interests in real property located in the City.

**C. Landowner**. The Landowner is Junior S. Thiara, a married man, as his sole and separate property.

**D. Property**. The subject of this Agreement is the development of that certain property commonly known as West Railroad Village, consisting of approximately 15.84 acres located in the County of Sutter, as described in Exhibit A-I and depicted in Exhibit A-2, attached hereto and incorporated herein by reference (referred to as "the Property"). Landowner owns the Property in fee and represents that all other persons holding legal or equitable interests in the Property shall be bound by this Agreement.

**E. Bogue Stewart Master Plan herein after referred to as ("BSMP")**. The Property is located within the area that is part of the Bogue Stewart Master Plan.

**F. Project.** The development of the Property is in accordance with the City's General Plan, as amended, and the Development Approvals shall be referred to herein as the "Project."

**G. The Mitigated Negative Declaration**. The City examined the environmental effects of this Agreement and the Development Approvals in the Mitigated Negative Declaration (the "MND") (SCH No. 2024010060) prepared pursuant to the California Environmental Quality Act (CEQA). The City Council reviewed and certified the MND as adequate and complete as part of the approval of the Development Approvals.

**H. Purposes**. The Landowner and City desire to enter into an agreement for the purpose of implementing the plan for subdividing and development of West Railroad Village as set forth herein and Development Approvals and for mitigating the environmental impacts of such development as identified in the environmental document. The City has an expressed interest in ensuring the proper growth of the community by entering into Development Agreements as a method whereby a level of assurance can be achieved to meet that interest. The City has determined that the development of West Railroad Village pursuant to the proposed Tentative Subdivision Map 2023-002 is a development for which a Development Agreement is appropriate. A Development Agreement will provide certain benefits to the City; will eliminate uncertainty in the City's land use planning and secure orderly development of the Property in accordance with the policies and goals set forth in the City's General Plan. The Landowner has incurred and will incur substantial costs in order to comply with the conditions of approval and to assure development of the Property in accordance with this Agreement. In exchange for these benefits to the City and the public, the Landowner desires to receive assurance that the City shall grant permits and approvals required for the development of the Property in accordance with the Existing City Laws, subject to the terms and conditions contained in this Agreement. In order to effectuate these purposes, the Parties desire to enter into this Agreement.

**I. Entitlements Needed Prior to the Development Agreement**. The application for approval of this Agreement and the appropriate CEQA documentation required for approval of this Agreement, including:

- Tentative Subdivision Map 2023-002 (approvals may occur after adoption of the Development Agreement).
- Environmental Assessment 2023-07 (Certification of the Mitigated Negative Declaration).

The entitlements are collectively referred to as "Development Approvals."

**J. Reserved.**

**K. Development Agreement Adoption**. After conducting a duly noticed public hearing and making the requisite findings, the City Council, by the adoption of an Ordinance, approved this Agreement and authorized its execution. The City has determined that this Agreement furthers the public health, safety and general welfare, that the provisions of this Agreement are consistent with the goals and policies of the General Plan and is a community benefit. The City and Developer have determined that the project is a development for which this Agreement is appropriate. This Agreement

will eliminate uncertainty regarding Development Approvals and certain subsequent development approvals, thereby encouraging planning for, investment in and commitment to use and develop the Property. Continued use and development of the Property is anticipated to, in turn, provide the following substantial benefits and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement laws were enacted, including (1) providing for the development of unused land; (2) providing increased tax revenues for the City; (3) providing for jobs and economic development in the City; and (4) providing for infrastructure improvements that can be utilized by regional users and future users.

**L. Consistency with Yuba City General Plan**. Development of the Property in accordance with this Agreement will provide for orderly growth and development in accordance with the policies set forth in the City's General Plan, as amended and the Development Approvals. Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City Council finds and declares that this Agreement is consistent with the General Plan of the City and with the Development Approvals.

**M. Landowner Payments for the Costs of Public Infrastructure, Facilities, and Services**. Landowner agrees to pay the costs of such City of Yuba City public facilities and services as herein provided to mitigate impacts of the development of the Property, and City agrees to assure that Landowner may proceed and complete development of the Property, in accordance with the terms and conditions of this Agreement. The City's approval of development of the Property as provided herein is in reliance upon and in consideration of Landowner's agreement to make such payments toward the costs of public improvements and services as herein provided to mitigate the impacts of development of the Property.

**N. Development Agreement Ordinance**. City and Landowner have taken all actions mandated by and fulfilled all requirements set forth in the California Government Code Sections 65864 through 65869.5 regulating the use of development agreements.

**O. Flood Hazard**. The City has imposed conditions on the project that will protect the property to the urban level of flood protection in urban and urbanizing areas. Such conditions may also be implemented as conditions of tentative maps or other entitlements.

**NOW THEREFORE**, pursuant to the authority contained in Government Code Sections 65864 through 65869.5, and in consideration of the mutual covenants and promises contained herein, the adequacy and sufficiency of which is hereby acknowledged, the Landowner and the City, each individually referred to as a Party and collectively referred to as the Parties ("Parties"), agree as follows:

## AGREEMENT

## 1. General Provisions.

**1.1 Incorporation of Recitals**. The Preamble, the Recitals and all defined terms set forth in both, are hereby incorporated in this Agreement as if set forth herein in full.

**1.2 Definitions**. In addition to the defined terms in the Preamble and the Recitals, each reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term. Certain other terms shall have the meaning set forth for such term in this Agreement.

**1.2.1 Approvals**. Any and all permits or approvals of any kind or character required under the City Laws in order to develop the Project, including, but not limited to, architectural review approvals, building permits, site clearance and demolition permits, grading permits and utility connection permits.

**1.2.2 City Laws**. The ordinances, resolutions, codes, rules, regulations and official policies of the City govern the permitted uses of land, density, design, improvements and construction standards and specifications applicable to the development of the Property. Specifically, but without limiting the generality of the foregoing, City Laws shall include the City's General Plan, the Planned Development, the Zoning Regulations of the City of Yuba City, and the Subdivision Regulations of the City of Yuba City.

**1.2.3 Conditions**. All conditions, exactions, fees or payments, dedication or reservation requirements, obligations for on or off-site improvements, services or other conditions of approval called for in connection with the development of or construction on the Property under the existing City Laws, whether such conditions of approval constitute public improvements, or mitigation measures in connection with environmental review of any aspect of the Project.

**1.2.4 Director**. The Director of the Development Services Department.

**1.2.5 Existing City Laws**. The City Laws in effect as of the Effective Date of this Agreement.

**1.2.6 Laws**. The laws and Constitution of the State of California, the laws and Constitution of the United States and any codes, statutes or executive mandates in any court decision, state or federal, thereunder.

**1.2.7 Mortgagee**. “Mortgagee” means: (a) the holder of the beneficial interest under a Mortgage; (b) the lessor under a sale and leaseback Mortgage; and (c) any successors, assigns and designees of the foregoing.

**1.2.8 Party.** A signatory to this Agreement: or a successor or assign of a signatory to this Agreement.

**1.2.9 Property**. The Property is that property described and shown on Exhibits A-I and A-2. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with the Property and the benefits

and burdens hereof shall bind and inure to all successors-in-interest to the parties hereto.

**2. Effective Date: Term**.

**2.1 Recordation**. Not later than ten (10) days after the Effective Date, the Parties shall cause this Agreement to be recorded in the Official Records of the County of Sutter, State of California, as provided for in Government Code Section 65868.5. However, failure to record this Agreement within ten (10) days shall not affect its validity or enforceability by and between the Parties.

**2.2 Term**. Except as provided herein, the term of this Agreement shall commence on the Effective Date and terminate ten (10) years thereafter; provided, however, that the initial term may be extended, upon Developer's application therefore and upon the mutual agreement of both parties, by an amendment to this Agreement and after approval by the City Council after first receiving a recommendation by the Planning Commission.

Following the expiration of the Term, this Agreement shall be deemed terminated and be of no further force and effect; provided, however, said termination of the Agreement shall not affect any right or duty emanating from City Entitlements on the Property approved concurrently with or subsequent to the approval of this Agreement.

**3. General Development of the Project**.

**3.1 Project: Vested Entitlements**.

**3.1.1** The City has adopted certain approvals in connection with the Property, including the adoption of the Bogue Stewart Master Plan, the tentative map and Certification of the EIR (SCH #2017012009) for the Bogue Stewart Master Plan. To the extent the provisions of this Agreement conflicts with the General Plan and Bogue-Stewart Master Plan, those plans shall take precedence.

**3.1.2** Development of the Property shall be governed by this Agreement, and the Development Approvals. This Agreement does not impose affirmative obligations on the Landowner to commence development of the Project, or any phase thereof, in advance of its decision to do so.

**3.1.3** The permitted uses of the Property, the density and intensity of use, including, but not limited to, minimum landscape areas, maximum lot coverage, minimum and maximum number of parking spaces, and the allowable floor area ratios), and provisions for public improvements and all mitigation measures and conditions required or imposed in order to minimize or eliminate environmental impacts or any impacts of the Property applicable to development of the Property, are as set forth in ordinances, policies, and standards in effect as of the Effective Date and are hereby vested subject to the provisions of this Agreement ("Vested Entitlements").

**3.2 Project Phasing**. Landowner and City acknowledge and agree that the Project is designed to be developed in phases. The Parties also acknowledge and agree that presently the Landowner cannot predict the timing of the Project phasing. Because the California Supreme Court held in *Pardee Construction Co. v. City of*

*Camarillo* (1984) 37 Cal.3d 465, that failure of the Parties therein to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over the Parties' agreement, it is the Parties' intent to cure that deficiency by acknowledging and providing that the Landowner shall have the right to develop the building components of the Project in phases in accordance with the Development Approvals and at such times as the Landowner deems appropriate within the exercise of its subjective business judgment and the provisions of this Agreement.

**3.3 Other Government Permits**. The Landowner or City (whichever is appropriate) shall apply for such other permits and approvals from other governmental or quasi-governmental agencies having jurisdiction over the Project (such as public utility districts, Gilsizer County Drainage District, the U.S. Army Corps of Engineers, or Cal Trans) as may be required for the development of, or provision of services to, the Project. The City shall promptly and diligently cooperate, at no cost or damage to the City, with the Landowner in its endeavors to obtain such permits and approvals and, from time-to-time at the request of the Landowner, shall attempt with due diligence and in good faith to enter into binding agreements with any such entity in order to assume the availability of such permits and approvals of services. To the extent allowed by law, the Landowner shall be a party or third-party beneficiary to any such agreement and shall be entitled to enforce the rights of the Landowner or City thereunder or the duties and obligations of the parties thereto.

**3.4 Additional Fees**. Except as set forth in this Agreement, the City shall not impose any further or additional fees, taxes or assessments, whether through exercise of the police power, the taxing power, or any other means, other than those required by Existing City Laws and this Agreement, provided that:

**3.4.1 Community Facilities District.** Prior to the approval of any final map within the area covered by this Agreement, the Developer shall be required to enter into a Community Facilities District ("CFD") or similar funding mechanism acceptable to the City for the purpose of funding on-going operational costs for police, fire, and other government services and for the on-going maintenance costs for road and park facilities.

Developer shall cooperate in the formation or annexation to the CFD or funding mechanism, and irrevocably consents herewith to the levy of such special taxes, establishment of funding mechanisms, or collection of other fees or charges, as are necessary to fund the operational and/or maintenance costs.

**3.4.2** The City may charge the Landowner the standard processing fees for land use approvals, building permits and other similar permits, which are in force and effect on a City-wide basis at the time application is submitted for those permits.

**3.4.3** City shall have the authority to enact or increase development impact fees provided the fees are consistent with the fees applied to other properties in the City or area wide that is similarly situated.

**3.4.4** If the City exercises its taxing power in a manner which will not change any of the conditions applicable to the Project and so long as any taxes are uniformly applied on a City-wide or area-wide basis, as defined below, the Property may be so taxed, which tax shall be consistent with the taxation of other properties in the City or area wide that is similarly situated.

**3.4.5** If state or federal laws are adopted which enable cities to impose fees on existing projects and if, consequently, the City adopts enabling legislation and imposes fees on existing projects on a City-wide basis, these fees may be imposed on the Project, which fees shall be consistent with the fees imposed on other properties in the City similarly situated.

**3.4.6** Landowner shall pay the following fees:

i. City-wide development impact fees, which may include but not be limited to:

- Parks and Recreation
- Community Civic Center
- Fire Protection
- Library Services
- Police Protection
- Roadways/Traffic
- Flood Protection/Levee Improvements
- City Corporation Yard
- Drainage
- Administration Component
- Connection and Trunk Line Fees (Water and Sewer)
- Applicable County Development Impact Fees

ii. A Park and Recreation Development Impact Fee to cover development of neighborhood park per Section 4.2.5 of this Agreement.

iii. Any fees that Developer is obligated to directly pay to any Federal, State, County or local agency (other than any City Agency) under applicable Federal, State, County or local law.

iv. Any fees the City is legally required to collect for other State or Federal agencies pursuant to State or Federal law or any City agreement or City ordinance that the City is legally mandated or required to adopt or enter into to comply with State or Federal law or a judgment of a court of law, but only to the extent necessary to satisfy such compliance.

Fees shall be paid at the then-applicable rate in effect at the time building permits are obtained. Certain City fees may be deferred to prior to issuance of a certificate of occupancy if otherwise allowed by City ordinance, regulation, or policy.

The parties also acknowledge that the City is currently assessing a publicly administered fee program for the Bogue-Stewart Master Plan area. If adopted, this program may impose fee(s) applicable to the entire area including the Property. Landowner agrees to pay such fee(s) once adopted by the City. Nothing in this Agreement shall preclude Landowner from objecting to or contesting the adoption of the fees in the same manner as any other member of the public.

**3.4.7** For purposes of this Agreement, "area wide" shall cover not only the Property, but also at least all parcels zoned and/or developed in a manner similar to the Property and located in the combined area of the Master Plan. The Parties acknowledge that the provisions contained in this Section 3.4 are intended to implement the intent of the Parties that the Landowner has the right to develop the Project pursuant to specified and known criteria and rules, and that the City receives the benefits which will be conferred as a result of such development without abridging the right of the City to act in accordance with its powers, duties and obligations.

**3.5 Applicable Laws and Standards**. Notwithstanding any change in any Existing City Law, including but not limited to, any change by means of ordinance, resolution, initiative, referendum, policy or moratorium, and except as otherwise provided in this Agreement, the laws and policies applicable to the Property are set forth in Existing City Laws (regardless of future changes in these by the City), and this Agreement. The Project has vested rights to be built and occupied on the Property, provided that the City may apply and enforce the Uniform Building Code (including the Uniform Mechanical Code, Uniform Electrical Code and Uniform Plumbing Code) and Uniform Fire Code and all applicable hazardous materials regulations in effect at the time the Landowner applies for any particular building permits for any particular building or other development aspect of the Project.

**3.6 Application of New Laws**. Nothing herein shall prevent the City from applying to the Property new federal, state or City Laws that are not inconsistent or in conflict with the Existing City Laws or the intent, purposes or any of the terms, standards or conditions of this Agreement; and which do not alter the terms, impose any further or additional fees or impose any other conditions requiring additional traffic improvements requirements or additional off-site improvements that are inconsistent with this Agreement or the intent of this Agreement. Any action or proceeding of the City that has any of the following effects on the Project shall be considered to be in conflict with this Agreement and the existing City Laws, and shall not be applied by the City to the Project or this Agreement:

**3.6.1** Limiting the uses permitted on the Property;

**3.6.2** Limiting or reducing the density or intensity of uses, the maximum height, the allowable floor area ratios, the required number of parking spaces, increasing the amount of required landscaping or reservations and dedications of land for public purposes;

**3.6.3** Limiting the timing or phasing of the Project in any manner that is inconsistent with or more restrictive than the provisions of this Agreement;

**3.6.4** Limiting the location of building sites, grading or other improvement on the Property in a manner that is inconsistent with or more restrictive than the limitations included in this Agreement; or

**3.6.5** Applying to the Project or the Property any law, regulation, or rule restricting or affecting a use or activity otherwise allowed by this Agreement.

**3.7 Moratorium, Quotas, Restrictions, or Other Limitations**. Without limiting the City's standard application processing procedures, no moratorium or other limitation affecting building permits or other land use entitlements, or the rate, timing or sequencing thereof shall apply to the Project.

**3.8 Easements: Improvements**. The City shall cooperate with the Landowner in connection with any arrangements for abandoning existing utility or other easements and facilities and the relocation thereof or creation of any new easements within the Property necessary or appropriate in connection with the development of the Project.

**3.9 Farming Rights**. The City shall acknowledge that the Landowner shall have the right to continue to farm the lands non-developed portion of the property.

## 4. Developer Obligations

**4.1 Public Improvements:** Developer shall be responsible for constructing and financing the public infrastructure improvements necessary to serve the Project and as provided in this Agreement and the Development Approvals including the BSMP Public Facilities Financing Plan. Developer agrees to dedicate, construct or acquire the improvements or facilities and to perform the obligations set forth in this Section at its expense, subject only to those reimbursements and credits as specified in this Agreement. Public infrastructure improvements shall be designed and constructed in accordance with the improvement plans approved by City for such improvements, and in accordance with the requirements and regulations pursuant to California State law.

**4.2 Developer Obligations**. Developer shall be obligated to construct and finance the public infrastructure improvements as called out in the BSMP Public Facilities Finance Plan and as provided below, in accordance with the BSMP and consistent with the City's infrastructure Master Plans. Developer shall be required to post appropriate financial security with City prior to recordation of Final Maps, consistent with Project conditions of approval and as called out in the Public Facilities Financing Plan. The developer may be entitled to fee credits as provided in Section 5.1.

**4.2.1 Roads**. Roads shall be constructed per the approved phased infrastructure improvement matrix per the Project conditions of approval, the BSMP, and as provided in the approved tentative maps or other discretionary City permits. On-site improvements shall be as per project approvals and approved improvement plans.

**4.2.2 Storm Drainage**. Developer shall provide necessary on-site and off-site improvements for storm drainage consistent with Project conditions of approval and as required by the City and the BSMP. Improvements shall be constructed for the approved phased infrastructure improvement per the tentative map conditions of approval, Planned Development, and as provided in the approved tentative maps or other discretionary City permits.

**4.2.3 Sewer**. Developer shall construct sewer lines consistent with the BSMP and Project conditions of approval of the tentative map and other discretionary City permits. Improvements shall be constructed for the approved phased infrastructure improvement per the tentative map conditions of approval, Planned Development, and as provided in the approved tentative maps or other discretionary City permits.

**4.2.4 Water**. Developer shall construct water line improvements consistent with the BSMP and conditions of approval of the tentative maps and other discretionary City permits. Developer shall also be responsible for all on-site water line improvements. Improvements shall be constructed for the approved phased infrastructure improvement per the tentative map conditions of approval, Planned Development, and as provided in the approved tentative maps or other discretionary City permits.

**4.2.5 Neighborhood Park Impact Fee.** Developer shall pay to City a supplement to the Park and Recreation Development Impact Fee to cover development of neighborhood parks in the amount of $3,200 per single-family residential unit and $2,300 per multifamily unit, prior to issuance of a certificate of occupancy for each lot developed. Said fee shall be considered in addition to the City's existing Park and Recreation development impact fee specified in Section 3.4.7 of this Agreement. This fee is subject to inflation utilizing the

Engineering News and Record Construction Index beginning January 2020. This fee shall become inoperative should the City adopt a comprehensive Park and Recreation Development Impact fee update where neighborhood parks are incorporated into the City's fee program. The Project shall then be required to pay the comprehensive Park and Recreation Development Impact fee. Neighborhood Park Supplement Development Impact Fees acquired or earned prior to a comprehensive Park and Recreation Development Impact fee will remain to be considered Park and Recreation fee credits or reimbursements

**4.3 Reimbursement by Developer to Third Parties**. In the event that facilities, including, but not limited to, roadway, sewer, water, drainage, and parks are constructed by third parties which benefit Developer, Developer agrees that it will pay to City for reimbursement to the third parties, Developer's pro-rata share, as reasonably determined by the City, of the cost of construction prior to the issuance of the first building permit in the Project. Third party reimbursement will include, in addition to construction costs, those costs associated with planning, design and permitting as set forth in Section 4.1 of this Agreement.

**4.4 Covenants, Conditions and Restrictions; Enforcement by City**. Upon the recordation of each final subdivision map or other development project, Developer shall record against such portion of the Property a master set of covenants, conditions and restrictions ("CC&R's") to require the development and use of the property to be consistent with the Project Entitlement development plan or other appropriate City designation and applicable design guidelines for the Project. The CC&R's shall include the covenants that all structures and landscaping within the Project are to be built, installed and maintained in accordance with the Master Plan and subject to an obligation to obtain design approval from the City prior to any construction or modification of such improvements. The CC&R's shall provide that the City shall be a third-party beneficiary thereof and may not be amended without the City's consent. As a third-party beneficiary, the City shall have the right, but no obligation, to review and/or enforce any covenant under the CC&R's and the City shall not be obligated hereby to respond to any demands or complaints thereunder or otherwise take any action with respect thereto. The CC&R's shall give the City the same rights as any other owner of record and enforce liens to recover the costs of such enforcement, which may include costs to perform maintenance obligations, remove trash or debris, tow any unlawfully parked vehicles, or other such violations, all at the cost of any defaulting party. The form of such CC&R's shall be subject to the review and approval by the City Attorney, which shall not be unreasonably withheld, prior to recordation thereof and prior to any amendment thereof that may affect the City's enforcement rights thereunder. City acknowledges that Developer shall not be obligated by the foregoing to form a homeowner's association.

**4.5 Reimbursement for City Costs**. Developer shall reimburse City for all of City's costs incurred in the drafting, negotiating, development, and implementation of this Agreement, including, but not limited to, the annual review pursuant to Section 6.1. Said costs shall include, but not be limited to, the full cost recovery of all City's staff time and City's attorney fees. This Agreement shall not take effect until the City costs, as provided for in this section, owed by Developer to City are paid to the City.

**4.6 Building and Site Design**. Developer shall comply with the design intent in the City-wide adopted Design Guidelines.

## 5. Reimbursement and Fee Credits, Financing, and Right-of Way

### 5.1 Reimbursement to Developer for Oversizing

**5.1.1** Developer agrees the City may require Developer to construct certain on-site and off-site improvements in a manner that provides for oversize or excess capacity beyond that size or capacity needed to serve the project (collectively "Oversizing") so that the constructed improvement will be available to serve other development or residences or facilities outside of the Property. The City shall not require any Oversizing from the Developer except in connection with project approvals or in Development Approvals, and in accordance with the provisions of the Subdivision Map Act. Developer may be entitled to a fee credit or reimbursement for Oversizing improvements per Section 5 of this Agreement.

**5.1.2** In the event that City requires Developer to install a specific improvement (for example, a traffic signal), Developer's obligation to pay the relevant development impact fees otherwise owed under this Agreement regarding the category of improvement the Developer is installing shall be satisfied by the installation of such improvement in the manner mutually agreed upon by the City and the Developer so long as the amount of the development impact fees for this category of improvement does not exceed the cost of such improvement. City shall accept Developer's dedication of such improvements, consistent with the terms and conditions of this Agreement.

By entering into this Agreement, City and Developer agree that certain facilities, including, but not limited to, roadway, sewer, water, and drainage will be constructed by Developer pursuant to this Agreement which will benefit third-party landowners. Developer shall be entitled to a fee credit for any such facilities to the extent they benefit third party landowners in an amount as reasonably determined by the City. If Developer's fee credit for a particular facility exceeds the amount of the fee owed, then Developer shall be reimbursed for the amount the fee credit exceeds the fee owed by the benefited third-party landowners. Developer shall request the City enter into a Reimbursement Agreement, which shall specify the reimbursement calculations and amounts as determined by the City. The Reimbursement Agreement will require future development by third-party landowners benefiting from the Oversizing to reimburse Developer's pro-rata share for a period of up to twenty (20) years from the installation of the oversizing or other qualifying improvements benefiting third-party landowners, provided, that Developer shall have the right to extend the initial twenty (20) year period with a single five (5) year extension request. The extension request must be received, by the City, in writing six months prior to the expiration of the Reimbursement Agreement. The City Council is authorized to enter into a Reimbursement Agreement on behalf of the City subject to approval as to legal form by the City Attorney.

**5.1.3 Reimbursement Calculations**. City will provide Developer with the available documentation showing the basis for the reimbursement amounts pursuant to Section 4.1. The reimbursement obligations provided in this Agreement will be in amounts as reasonably determined by the City.

**5.1.4 Reimbursement Personal to Constructing Owner**. All rights to reimbursement created pursuant to Section 4.1 shall be personal to the owner installing the improvements and shall not run with the land unless such rights are expressly assigned in writing.

**5.2 City's Support of Public Financing for Project Improvements**. Development of the Project requires the investment of significant capital to fund the Project's necessary major infrastructure. Developer may, at its discretion, seek public financing mechanism for financing the construction, improvement or acquisition of major infrastructure. At the request of Developer, the City may consider the use of finance districts, special assessment

districts, and other similar project-related public financing mechanisms to fund the Project's necessary infrastructure.

**5.3 Right-of-Way Acquisition**. With respect to the acquisition of any off-site interest in real property required by Developer in order to fulfill any condition required by the Project or the Entitlements, Developer shall make a good faith effort to acquire the necessary interest by private negotiations at the fair market value of such interest. If, after such reasonable efforts, Developer has been unable to acquire such interest and provided that Developer (i) provides evidence of a good faith effort to acquire the necessary property interest to the reasonable satisfaction of City and (ii) agrees to pay the cost of such acquisition, including reasonable attorney's fees, City shall make an offer to acquire the necessary property interest at its fair market value. If such offer has not been accepted within 60 days, City agrees, to the extent permitted by law, to cooperate and assist Developer in efforts to obtain such necessary property interest. Any such acquisition by City shall be subject to City's good faith discretion, which is expressly reserved by City, to make the necessary findings, including a finding thereby of public necessity, to acquire such interest. Subject to the reservation of such good faith discretion, the City shall schedule the necessary hearings, and if approved by City, thereafter prosecute to completion the proceedings and action to acquire the necessary property interests by power of eminent domain.

Developer shall fund all costs of the acquisition of such necessary property interests, including reasonable attorney's fees and court costs in the event that such acquisition and/or condemnation is necessary.

**6. Annual Review**.

**6.1 Good Faith Compliance**. Developer shall annually provide documentation of good faith compliance with this agreement per Govt. Code Section 65865.1 to the City and shall reimburse the City for any processing under Section 6. The City may, at least every twelve (12) months, during the Term of this Agreement, conduct a public meeting to review the extent of good faith substantial compliance by Landowner with the terms of this Agreement at Landowner's expense. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to Government Code Section 65865.1. Notice of such annual review will be provided by the Development Services Director to Landowner thirty (30) days prior to the date of the public meeting by the Planning Commission and shall include the statement that any review may result in amendment or termination of this Agreement as provided herein. A finding by the City of good faith compliance by the Landowner with the terms of Agreement shall conclusively determine the issue up to and including the date of such review. Nothing in this Section shall be deemed to create a duty of responsibility of City or Landowner or define an event of default that but for such concurrent review would not have been so created or defined.

**6.2 Failure to Comply in Good Faith**. If the City Council makes a finding that the Landowner has not complied in good faith with the terms and conditions of this Agreement, the City shall provide written notice to the Landowner describing: (i) such failure to comply with the terms and conditions of this Agreement (referenced to herein as a "Default"); (ii) the actions, if any, required by the Landowner to cure such Default; and (iii) the time period within which such Default must be cured. The Landowner shall have, at a minimum, thirty (30) business days after the date of such notice to cure such Default, or in the event that such Default cannot be cured within such

thirty (30) day period but can be cured within one (1) year, the Landowner shall have commenced the actions necessary to cure such Default and shall be diligently proceeding to complete such actions necessary to cure such Default within thirty (30) days from the date of notice. If the Default cannot be cured within one (1) year, as determined by the City during periodic or special review, the City Council may modify or terminate this, Agreement as provided in Section 6.4 and Section 6.5.

**6.3 Failure to Cure Default**. If the Landowner fails to cure a Default within the time periods set forth above, the City Council may modify or terminate this Agreement as provided below.

**6.4 Proceedings Upon Modification or Termination**. If, upon a finding under Section 6.2 and the expiration of the cure period, the City determines to proceed with modification or termination of this Agreement, the City shall give written notice to the Landowner of its intention to do so. The notice shall be given at least fifteen (15) calendar days before the scheduled hearing and shall contain:

**6.4.1** The time and place of the hearing;

**6.4.2** A statement as to whether or not the City proposes to terminate or to modify the Agreement; and

**6.4.3** Such other information as is reasonably necessary to inform the Landowner of the nature of the proceeding.

**6.5 Hearings on Modification or Termination**. At the time and place set for the hearing on modification or termination, the Landowner shall be given an opportunity to be heard, and the Landowner shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on the issue shall be on the Landowner. If the City Council finds, based upon substantial evidence, that the Landowner has not complied in good faith with the terms or conditions of the Agreement, the City Council may terminate this Agreement or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City.

**7. Permitted Delays**.

**7.1 Extension of Times of Performance**. In addition to specific provisions of this Agreement, performance by either Party under this Agreement shall not be deemed to be in default where delays or, defaults are due to war, insurrection, strikes, lockouts, walkouts, drought, riots, floods, earthquakes, fire, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, restrictions imposed by governmental or quasigovernmental entities other than the City, unusually severe weather, acts of the other Party, acts or the failure to act of any public or government agency or entity other than the City, or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of cause. If, however, notice by the Party claiming such extension of time is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of

performance under this Agreement may also be extended in writing by the joint agreement of the City and Landowner. Litigation attacking the validity of this Agreement, or any permit, ordinance, or entitlement or other action of a governmental agency necessary for the development of the Property pursuant to this Agreement shall also be deemed to create an excusable delay under this Section.

**7.2 Supersedure by Subsequent Laws**. If any Law made or enacted after the date of this Agreement prevents or precludes compliance with one or more provisions of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new Law. Immediately after enactment of any such new Law, the Parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. If such modification or suspension is infeasible in the Landowner's reasonable business Judgment, then the Landowner shall have the right to terminate this Agreement by written notice to the City. The Landowner shall also have the right to challenge the new Law preventing compliance with the terms of this Agreement, and, in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

**8. Termination.**

**8.1 City's Right to Terminate**. The City shall have the right to terminate this Agreement if the Landowner is not in substantial compliance with the terms of this Agreement and this default remains uncured, all as set forth in Section 6.

**8.2 Landowner's Right to Terminate**. The Landowner shall have the right to terminate this Agreement only under the following circumstances:

**8.2.1** The Landowner has found the City in breach of this Agreement, has given the City notice of such breach and the City has not cured such breach within thirty (30) days of receipt of such notice or, if the breach cannot reasonably be cured within such thirty (30) day period, if the City has not commenced to cure such breach within thirty (30) days of receipt of such notice and is not diligently proceeding to cure such breach.

**8.2.2** The Landowner is unable to complete the Project because of supersedure by a subsequent law per Section 7.2 or court action.

**8.2.3** The Landowner determines, in its business judgment, that it is not practical or reasonable to pursue development of the Property, however if termination occurs for this reason the City reserves the right to revoke any remaining entitlement to develop the property.

**8.3 Mutual Agreement**. This Agreement may be terminated upon the mutual Agreement of the Parties.

**8.4 Effect of Termination.**

**8.4.1 General Effect**. If this Agreement is terminated for any reason, such termination shall not affect any condition or obligation due to the City from the Landowner prior to the date of termination and such termination shall not otherwise

affect any other City entitlement or approval with respect to the Property that has been granted prior to the date of termination.

**8.5 Recordation of Termination**. In the event of a termination, the City and Landowner agree to cooperate with one another in executing a Memorandum of Termination to record in the Official Records of Sutter County within thirty (30) days of the date of termination.

**9. Remedies**. Either Party may, in addition to any other rights or remedies, institute legal or equitable action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation or enforce by specific performance the obligations and rights of the Parties hereto.

**10. Waiver: Cumulative Remedies**. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of an event of default shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omission by a Party to take any action with respect to such event of default. No express written waiver of any event of default shall affect any other event of default, or cover any other period of time, other than any event of default and/or period of time specified in such express waiver. Except as provided in this Section, all of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

**11. Project as a Private Undertaking**. It is specifically understood and agreed by and between the Parties that the Project is a private development. This Agreement is made and entered into for the sole protection and benefit of the Landowner and the City and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement. The City and Landowner hereby renounce the existence of any third-party beneficiary to this Agreement and agree that nothing contained herein shall be construed as giving any other person or entity third-party beneficiary status. No partnership, joint venture or other association of any kind is formed by this Agreement.

**12. Cooperation in the Event of Legal Claim**. In the event any legal action or proceeding is instituted by any third-party challenging the validity of any provision of this Agreement or any action or decision taken or made hereunder, the Parties shall cooperate in defending such action or proceeding.

**13. Estoppel Certificate**. Either Party may, at any time, and from time-to-time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties; ii) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing therein the nature and amount of any such defaults; and (iv) the requesting Party has been found to be in compliance with this

Agreement, and the date of the last determination of such compliance. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following receipt thereof. The Director shall have the right to execute any certificate requested by the Landowner hereunder. The City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

**14. Right to Assign or Transfer**. The Landowner's rights and responsibilities hereunder may be sold or assigned in conjunction with the transfer, sale or assignment of the Property at any time during the term of this Agreement subject to the following conditions precedent:

**14.1** No default by Developer shall be outstanding and uncured as of the effective date of the proposed transfer, unless the City Council has received adequate assurances satisfactory to the City Council that such default shall be cured in a timely manner either by Developer or the transferee under the transfer.

**14.2** Prior to the effective date of the proposed transfer, Developer or the proposed transferee has delivered to the City an executed and acknowledged assignment and assumption agreement (the "Assumption Agreement") in recordable form. Such Assumption Agreement shall include provisions regarding: (a) the rights and interest proposed to be transferred to the proposed transferee; (b) the obligations of Developer under this Agreement that the proposed transferee will assume; and (c) the proposed transferee's acknowledgment that such transferee has reviewed and agrees to be bound by this Agreement. The Assumption Agreement shall also include the name, form of entity, and address of the proposed transferee, and shall provide that the transferee assumes the obligations of Developer to be assumed by the transferee in connection with the proposed transfer. The Assumption Agreement shall be recorded in the official records of the County of Sutter concurrently with the consummation of the transfer.

**14.3** Prior to the effective date of the proposed transfer, the Developer must obtain the City's consent in writing to the transfer, which may be evidenced by the City Council's approval of an Assumption Agreement. City's consent shall not be unreasonably withheld. Factors the City may consider in determining whether to consent to the transfer include the financial capacity of the proposed transferee to comply with all of the terms of the Agreement and the history, if any, of compliance of transferee, its principals, officers or owners with the provisions of federal or state law, the Yuba City Municipal Code or agreements with the City relating to development projects within the City.

**14.4** Mortgagee as Transferee. No Mortgage (including the execution and delivery thereof to the Mortgagee) shall constitute a transfer. A Mortgagee shall be a transferee only upon: (a) the acquisition by such Mortgagee of the affected interest of Developer encumbered by such Mortgagee's Mortgage; and (b) delivery to the City of an Assumption Agreement executed by the Mortgagee pursuant to which the Mortgagee assumes assuming, from and after the date such Mortgagee so acquires its interest, the applicable rights, duties and obligations of Developer under this Agreement. No further consent of the City shall be required for any such transfer to a Mortgagee.

**14.5** Effect of Transfer. A transferee shall become a Party to this Agreement only with respect to the interest transferred to it under the transfer and then only to the extent set forth in the Assumption Agreement. If Developer transfers all of its rights, duties and obligations under this Agreement, Developer shall be released from any and all obligations

accruing after the date of the transfer under this Agreement. If Developer effectuates a transfer as to only some but not all of its rights, duties and obligations under this Agreement, Developer shall be released only from its obligations accruing after the date of the transfer which the transferee assumes in the Assumption Agreement.

**15 Financing**. Mortgages, deeds of trust, sales and leasebacks, or other forms of conveyance required for any reasonable method of financing requiring a security arrangement with respect to the Property ("Mortgages") are permitted without the consent of the City, provided the Landowner complies with the following:

**15.1 Mortgagee Protection.** This Agreement and any covenants entered into between the Developer and City shall be superior and senior to the conveyance of any Mortgage encumbering any interest in the Property. No default shall defeat, render invalid, diminish or impair the conveyance of any Mortgage made for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person (including any Mortgagee) who acquires title to the Property or any portion thereof or interest therein or improvement thereon, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

**15.2 Mortgagee Not Obligated; Mortgagee as Transferee.** No Mortgagee shall have any obligation or duty under this Agreement whatsoever, except that nothing contained in this Agreement shall be deemed to permit or authorize any Mortgagee to undertake any new construction or improvement in the West Railroad Village Project Area, or to otherwise have the benefit of any rights of Developer, or to enforce any obligation of the City, under this Agreement, unless and until such Mortgagee elects to become a Transferee in the manner specified in this Agreement. Any Mortgagee that affirmatively elects to become a Transferee shall be later released from all obligations and liabilities under this Agreement upon the subsequent transfer by the Mortgagee of its interest as a transferee to another person.

**15.3 Entitlement to Written Notice of Default.** The Mortgagee of a Mortgage or beneficiary of a deed of trust encumbering the Property, or any part thereof, and their successors and assigns shall, upon written request to the City, be entitled to receive from the City written notification of any default by Landowner of the performance of Landowner's obligations under this Agreement which has not been cured within sixty (60) days following the date of default. Landowner shall reimburse the City for its actual costs, reasonably and necessarily incurred, to prepare this notice of default.

**15.4 Priority of Mortgages and Subordination.** Landowner shall ensure that all Mortgages subordinate to this Agreement. For purposes of exercising any remedy of a Mortgagee or for becoming a Transferee, the applicable laws of the State of California shall govern the rights, remedies and priorities of each Mortgagee, absent a written agreement between Mortgagees otherwise providing.

**15.5 Collateral Assignment.** As additional security to a Mortgagee under a Mortgage on the Property or any portion thereof, Developer shall have the right, without the consent of the City, to execute a collateral assignment of Developer's rights, benefits and remedies under this Agreement in favor of the Mortgagee (a "Collateral Assignment") on the standard form provided by the Mortgagee.

**16. Covenants to Run with the Land**. All of the provisions, agreements, rights, powers, standards, terms, covenants, and obligations contained in this

Agreement shall be binding upon the Parties and their respective heirs, successors, assignees, devises, administrators, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors and assignees. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder: (i) is for the benefit of such properties and is a burden upon such properties; (ii) runs with such properties; and (iii) is binding upon each Party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such properties, or any portion thereof, and shall benefit each Party and its property hereunder, and each other person succeeding to an interest in such properties; provided that no liability or obligation shall accrue to any person, if this Agreement terminates pursuant to Section 8 of this Agreement.

**17. Amendment**.

**17.1 Amendment or Cancellation**. Except as otherwise provided in this Agreement, this Agreement may be canceled, modified or amended only by mutual consent of the Parties in writing, and then only in the manner provided for in Government Code Section 65868. Minor amendments to this Agreement may be made without a public hearing upon approval of the Development Services Director. "Minor Amendments" shall mean amendments which are similar in significance to the type of minor amendments to land use entitlements that may be made without a full public hearing or approval of the Planning Commission or City Council pursuant to the Yuba City Municipal Code.

**17.2 Recordation**. Any amendment, termination or cancellation of this Agreement shall be recorded by the City Clerk not later than ten (10) days after the effective date of the action effecting such amendment, termination or cancellation; however, a failure to record shall not affect the validity of the amendment, termination or cancellation.

**18. Notices**.

**18.1 Procedure**. Any notice to either Party shall be in writing and given by delivering the notice in person or by sending the notice by registered or certified mail, or Express Mail, return receipt requested, with postage prepaid, to the Party's mailing address.

**18.2 Mailing Addresses**. The respective mailing addresses of the Parties are, until changed as hereinafter provided, the following:

| | |
|---|---|
| City: | Development Services Director<br>City of Yuba City<br>1201 Civic Center Blvd.<br>Yuba City, CA 95993 |
| With a copy to: | City Manager |

City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

Landowners: Junior S. Thiara
P.O. Box 3546
Yuba City, CA 95992

With a copy to: MHM Incorporated
Attn: Sean Minard
P.O. Box B
Marysville, CA 95901

Either Party may change its mailing address at any time by giving ten (10) days' notice of such change in the manner provided for in this section. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is affected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. Nothing in this provision shall be construed to prohibit communication by facsimile transmission, so long as an original is sent by first class mail, commercial carrier or is hand-delivered.

**19. Indemnification.**

**19.1 Third Party Actions.** To the furthest extent allowed by law, Developer shall indemnify, hold harmless and immediately defend, with counsel of City's choosing, City and each of its officers, officials, employees, agents, attorneys, and volunteers from any and all loss, liability, fines, penalties, forfeitures, damages and costs (including attorney's fees, litigation expenses and administrative record preparation costs) arising from, resulting from, or in connection with any Third-Party Action (as hereinafter defined). The term "Third Party Action" collectively means any legal action or other proceeding instituted by (i) a third party or parties or (ii) a governmental body, agency or official other than the City or a City Agency, that: (a) challenges or contests any or all of this Agreement, the West Railroad Village Subdivision Map Applications and Approvals, or the Development Approvals; or (b) claims or alleges a violation of CEQA or another law in connection with the certification of the EIR by the City Council or the grant, issuance or approval by the City of any or all of this Agreement, the West Railroad Village Subdivision Map Applications and Approvals, and the Development Approvals. Developer's obligations under this Section shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties forfeitures, costs or damages caused solely by the active negligence or willful misconduct of the City or any of its officers, officials, employees, agents or volunteers. The provisions of this Section shall survive the termination of this Agreement.

**19.2 Damage Claims.** The nature and extent of Developer's obligations to indemnify, defend and hold harmless the City with regard to events or circumstances not addressed in Section 19.1 shall be governed by this Section 19.2. To the furthest extent allowed by law, Developer shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, attorneys, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by

City, Developer or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement or the performance of any or all work to be done by Developer or its contractors, agents, successors and assigns pursuant to this Agreement (including, but not limited to design, construction and/or ongoing operation and maintenance of off-site improvements unless and until such off-site improvements are dedicated to and officially accepted by the City). Developer's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, attorneys, or agents are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, agents, attorneys, or volunteers.

If Developer should subcontract all or any portion of the services to be performed under this Agreement, Developer shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, attorneys, and volunteers in accordance with the terms of the preceding paragraph. The Developer further agrees that the use for any purpose and by any person of any and all of the streets and improvements required under this Agreement, shall be at the sole and exclusive risk of the Developer, at all times prior to final acceptance by the City of the completed street and other improvements, unless any loss, liability, fines, penalties, forfeitures, costs or damages arising from said use were caused by the active or sole negligence, or the willful misconduct, of the City or any of its officers, officials, employees, agents or volunteers.

Notwithstanding the preceding paragraph, to the extent that Subcontractor is a “design professional” as defined in Section 2782.8 of the California Civil Code and performing work hereunder as a “design professional” shall, in lieu of the preceding paragraph, be required to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers to the furthest extent allowed by law, from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in Agreement, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

This Section shall survive termination or expiration of this Agreement.

**20. Insurance.** Prior to starting construction of any phase of the project through the date of City’s final formal acceptance of off-site improvements constructed pursuant to the terms of this Agreement (the “Insurance Period”), Developer shall pay for and maintain in full force and effect all policies of insurance described in this Section with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide, or (ii) authorized by City’s Public Work’s Director. The following policies of insurance are required:

**20.1 Commercial General Liability.** Insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and shall include insurance for bodily injury, property damage and personal injury with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, contractual liability (including indemnity obligations under this Agreement), with limits of liability of not less than

$1,000,000 per occurrence for bodily injury and property damage, $1,000,000 per occurrence for personal injury, $1,000,000 general aggregate and $1,000,000 aggregate for products and completed operations and $5,000,000 general aggregate.

**20.2 Commercial Automobile Liability.** Insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Business Auto Coverage Form CA 00 01 and shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 B Any Auto), with combined single limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

**20.3 Workers Compensation.** Insurance as required under the California Labor Code.

**20.4 Employers Liability.** Minimum limits of liability of not less than $1,000,000 each accident, $1,000,000 policy limit and $1,000,000 for each employee.

In the event Developer purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Developer shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Developer shall also be responsible for payment of any self-insured retentions.

The above-described policies of insurance shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of City of policy cancellation of coverage, except for the Workers' Compensation policy which shall provide a ten (10) calendar day written notice of such cancellation of coverage. In the event any policies are due to expire during the term of this Agreement, Developer shall provide a new certificate evidencing renewal of such policy not less than ten (10) calendar days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, Developer shall file with City a new certificate and all applicable endorsements for such policy(ies).

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, attorneys, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Developer's insurance shall be primary, and no contribution shall be required of City. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. Developer shall have furnished City with the certificate(s) and applicable endorsements for all required insurance prior to start of construction of any phase of development. Developer shall furnish City with copies of the actual policies upon the request of City's Director of Public Works at any time during the life of the Agreement or any extension, and this requirement shall survive termination or expiration of this Agreement.

If at any time during the Insurance Period, Developer fails to maintain the required insurance in full force and effect, the Director of Public Works, or designee, may order that the Developer, or its contractors or subcontractors, immediately discontinue any further work under this Agreement and take all necessary actions to secure the work site to ensure that public health and safety is protected. All payments due or that become due to Developer shall be withheld until notice is received by City that the required insurance has been restored to full force and

effect and that the premiums therefore have been paid for a period satisfactory to City. The insurance requirements set forth in this Section are material terms of this Agreement.

If Developer should hire a general contractor to provide all or any portion of the services or work to be performed under this Agreement, Developer shall require the general contractor to provide insurance protection in favor of City, its officers, officials, employees, attorneys, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that the general contractor's certificates and endorsements shall be on file with Developer and City prior to the commencement of any work by the general contractor.

If the general contractor should subcontract all or a portion of the services or work to be performed under this Agreement to one or more subcontractors, Developer shall require the general contractor to require each subcontractor to provide insurance protection in favor of City, its officers, officials, employees, attorneys, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that each subcontractor shall be required to pay for and maintain Commercial General Liability insurance with limits of liability of not less than $1,000,000 per occurrence for bodily injury and property damage, $1,000,000 per occurrence for personal injury, $1,000,000 aggregate for products and completed operations and $1,000,000 general aggregate and Commercial Automobile Liability insurance with limits of liability of not less than less than $1,000,000 per accident for bodily injury and property damage. Subcontractors' certificates and endorsements shall be on file with the general contractor, Developer and City prior to the commencement of any work by the subcontractor. Developer's failure to comply with these requirements shall constitute a default of this Agreement.

**21. Miscellaneous.**

**21.1 Approvals**. Unless otherwise provided herein, whenever approval, consent or satisfaction (herein collectively referred to as an "approval") is required of a Party pursuant to this Agreement, such approval shall not be unreasonably withheld. If a Party shall disapprove, the reasons therefore shall be stated in reasonable detail in writing. Approval by a Party to or of any act or request by the other Party shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests. The Parties acknowledge and agree that the intent of the Parties is that this Agreement be construed in a manner that protects the rights granted to Landowner herein as allowed by law. Except for the limitations on the exercise by the City of its police power which are provided in this Agreement or which are construed in accordance with the immediately preceding sentence, the Parties further acknowledge and agree that: (a) the City reserves all of its police power and/or statutory or other legal powers or responsibilities; and (b) this Agreement shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, to limit the discretion of the City or any of its officers or officials with regard to rules, regulations, ordinances, laws, and entitlement of use which require the exercise of discretion by the City or any of its officers or officials. This Agreement shall not be construed to limit the obligations of the City to comply with CEQA or any other federal or state law.

**21.2 Project Approvals Independent**. All approvals that may be granted pursuant to this Agreement, and all approvals or other land use approvals which have been or may be issued or granted by the City with respect to the Property, constitute independent actions and approvals by the City. If any provisions of this Agreement or the application of any provision of this Agreement to a particular situation

is held by a court of competent jurisdiction to be invalid or unenforceable, or if the City terminates this Agreement for any reason, such invalidity, unenforceability or termination of this Agreement or any part hereof shall not affect the validity or effectiveness of any approvals or other land use approvals. In such cases, such approvals will remain in effect pursuant to their own terms, provisions and conditions.

**21.3 Not a Public Dedication**. Nothing herein contained shall be deemed to be a gift or dedication of the Property, or of the Project, or any portion thereof, to the general public, for the general public, or for any-public use or purpose whatsoever. This proscription does not extend to any portion of the Property that may be dedicated in compliance with any conditions of approval. The Landowner shall have the right to prevent or prohibit the use of the Property, or any portion thereof, including common areas and buildings and improvements located thereon; by any person for any purposes inimical to the operation of a private, integrated Project as contemplated by this Agreement.

**21.4 Severability**. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

**21.5 Construction of Agreement**. The provisions of this Agreement and the Exhibits shall be construed as a whole according to their common meaning and not strictly for or against any Party in order to achieve the objectives and purpose of the Parties. The captions preceding the text of each Article, Section, and Subsection are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa. All references to "person" shall include, without limitation, any and all corporations, partnerships or other legal entities.

**21.6 Other Necessary Acts**. Each Party covenants, on behalf of itself and its successors, heirs and assigns, to take all actions and do all things, and to execute, with acknowledgment or affidavit if required, any and all further instruments, documents and writings as may be reasonably necessary or proper to achieve the purposes and objectives of this Agreement and to secure the other party the full and complete enjoyment of its rights and privileges hereunder.

**21.7 Applicable Law**. This Agreement, and the rights and obligations of the Parties, shall be construed by and enforced in accordance with the laws of the State of California.

**21.8 Equal Authorship**. This Agreement has been reviewed by legal counsel for both the Landowner and City, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

**21.9 Time**. Time is of the essence of this Agreement and of each and every term and condition hereof. In particular, the City agrees to act in a timely fashion in accepting, processing, checking and approving all maps, documents, plans, permit applications and any other matters requiring the City's review or approval relating to the Project or Property. Subject to extensions of time by mutual consent in writing, unreasonable delay by either party to perform any term or provision of this Agreement shall constitute a default.

**21.10 Subsequent Projects.** After the effective date of this Agreement, the City may approve other projects that place a burden on the City's infrastructure; however, it is the intent and agreement of the Parties that Landowner's right to build and occupy the Project, as described in this Agreement, shall not be diminished despite the increased burden of future approved development on public facilities.

**21.11 Entire Agreement**. This written Agreement and the Exhibits contain all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement and Exhibits.

**21.12 Form of Agreement: Exhibits**. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement constitutes the entire understanding and agreement of the parties. Said exhibits are identified as follows:

Exhibit A-1: Property legal description
Exhibit A-2: West Railroad Village Subdivision

All attachments to this Agreement, including all exhibits referenced herein, and all subparts thereto, are incorporated herein by this reference.

**21.13 Attorneys' Fees.** If either Party commences any action for the interpretation, enforcement, termination, cancellation or rescission hereof, or for specific performance of the breach hereof, the prevailing party shall be entitled to its reasonable attorneys' fees and litigation expenses and costs, and any judgment, order or decree rendered in such action, suit or proceeding shall include an award thereof. Attorneys' fees under this Section shall include attorneys' fees on any appeal and any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

**21.14 Limitation of Legal Acts.** In no event shall the City, or its officers, agents, attorneys, or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed that the Developer's sole legal remedy for a breach or violation of this Agreement by the City shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

**21.15 Interpretation and Governing State Law.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according

to its fair language and common meaning to achieve the objective and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, both Parties having been represented by counsel in the negotiation and preparation hereof. All legal actions brought to enforce the terms of this Agreement shall be brought and heard in the Superior Court of the State of California, County of Sutter.

**21.16 Successor Statutes Incorporated.** All references to a statute or ordinance, shall incorporate any, or all, successor statute or ordinance enacted to govern the activity now governed by the statute or ordinance, noted herein to the extent, however, that incorporation of such successor statute or ordinance does not adversely affect the benefits and protections granted to the Developer under this Agreement.

**21.17 Counterparts**. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and each of which shall be deemed to be one and the same instrument when each Party signs each such counterpart.

**21.18 Signature Pages**. For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages which, when attached to this Agreement, shall constitute this as one complete Agreement.

**21.19 Days.** Unless otherwise specified in this Agreement, the term "days" means calendar days.

**21.20 Authority.** The Parties hereby represent that the person hereby signing this Agreement on behalf of each respective Party has the authority to bind the Party to the Agreement.

[SIGNATURES ARE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

| "City" | "Landowner" |
| --- | --- |
| CITY OF YUBA CITY,<br>A General Law City | Junior S. Thiara,<br>an Individual |
| By:_____ | By:_____ |
| Shon Harris, Mayor | Junior S. Thiara |
| Date:_____ | Date:_____ |

Attest:

_____
City Clerk

Approved as to Form:

_____
Shannon Chaffin, City Attorney

Attachments:

A-1 Property Legal Description

A-2 West Railroad Village Subdivision Map

## EXHIBIT A-1

## PROPERTY LEGAL DESCRIPTION

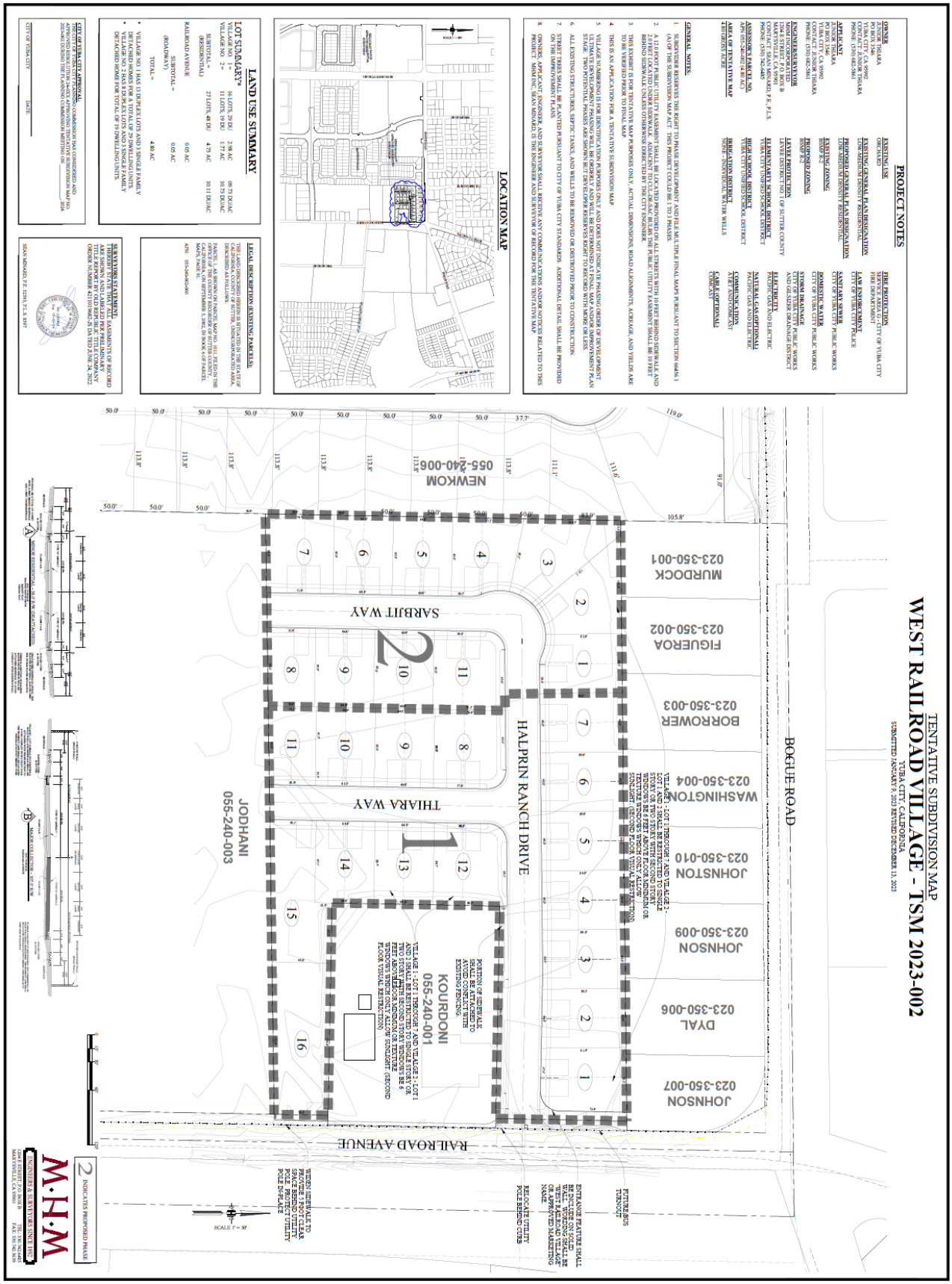
THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SUTTER, UNINCORPORATED AREA, DESCRIBED AS FOLLOWS:

PARCEL 1, AS SHOWN ON PARCEL MAP NO. 1011, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SUTTER COUNTY, CALIFORNIA, ON SEPTEMBER 5, 2002, IN BOOK 6 OF PARCEL MAPS, PAGE 91

PARCEL ONE (APN 055-240-002-000):

## EXHIBIT A-2

## WEST RAILROAD VILLAGE – TENTATIVE SUBDIVISION MAP



# ATTACHMENT 2

**CITY OF YUBA CITY**
**PLANNING COMMISSION**
**STAFF REPORT**

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**Date:** January 24, 2024

**To:** Chair and Members of the Planning Commission

**From:** Development Services Department

**Presentation by:** Doug Libby, AICP, Deputy Development Services Director

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**Subject:** **Tentative Subdivision Map (TSM) 23-02: West Railroad Village and an associated Development Agreement (DA) located on the west side of Railroad Avenue approximately 200 feet south of the intersection of Railroad Avenue and Bogue Road.**

**Recommendation:**

A. Conduct a Public Hearing and make the necessary findings to:

B. Adopt a Resolution of the Planning Commission of the City of Yuba City approving Environmental Assessment 23-07 by adopting a mitigated negative declaration, subject to the proposed Conditions of Approval and Mitigation Measures, and contingently approving TSM 23-02, West Railroad Village Subdivision, creating 21 duplex-residential lots and six single-family residential lots on approximately 4.8 acres, located on the west side of Railroad Avenue approximately 200 feet south of the intersection of Railroad Avenue and Bogue Road. Assessor's Parcel Number 055-240-002; and

C. Adopt a Resolution of the Planning Commission of Yuba City recommending the City Council of the City of Yuba City adopt a Resolution adopting Environmental Assessment 23-07 that resulted in a determination of a mitigated negative declaration for Tentative Subdivision Map (TSM) 23-02 West Railroad Village, and approving an Uncodified Ordinance for a Development Agreement for TSM 23-02, on approximately 4.8 acres, located on the west side of Railroad Avenue approximately 200 feet south of Bogue Road; Assessor's Parcel Number 055-240-002.

---

**Applicant/Owner** Junior Thiara

**Project Location:** The 4.8 acres are located on the west side of Railroad Avenue approximately 200 feet south of Bogue Road. Assessor's Parcel Number (APN) 055-240-002.

**General Plan:** The project is within the Medium-Low Density Residential (MDR) land use designation. This designation provides for a residential density of six to 14 residences per acre. The proposal will be approximately 10 residences per

acre.

**Specific Plan:** The property is within the Bogue-Stewart Master Plan (BSMP) (adopted as a specific plan), which also designates the property as MDR and applies the same residential density standard as the General Plan.

**Zoning:** The project is zoned Two-Family Residential Zone District combined with the Specific Plan Zone District (R-2/SP-BSMP).

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## Project Description

Tentative Subdivision Map (TSM) 23-02, West Railroad Village, and a Development Agreement. The subdivision proposes to subdivide the 4.8-acre property into 21 duplex lots and six single-family residential lots, for a total of 48 new residences. The site, which currently has an orchard on it, is located within the Bogue-Steward Master Plan (BSMP) area. The subdivision will be served by an internal loop street with two access points onto the property, both from Railroad Avenue. The property has full City services available to it.

The Development Agreement, which is required by BSMP policy, will extend the life of the tentative subdivision map for 10 years, with the potential for further extensions upon agreement of both parties. In return the developer will pay the City a $2,300 per multi-family unit and $3,200 single-family unit neighborhood park fee that would otherwise not be a requirement of the subdivision.

## Background

The BSMP was adopted by the City Council in January 2020. The 741-acre specific plan addresses development of the BSMP area in three phases – Newkom Ranch (170 acres) and Kells East Ranch (95 acres) subdivisions make up the first two phases for which there are approved tentative subdivision maps. Phase 3 is the remaining 476 acres) consisting of many separately owned properties, including this 4.8-acres.

The first two phases, Newkom Ranch Subdivision, and the Kells East Ranch Subdivision, were approved by the City Council concurrently with the BSMP. This is noteworthy as the EIR prepared for the specific plan reviewed these two subdivisions at a project level (more detail so that further environmental review is not needed), versus for the remainder of the properties within the specific plan boundaries for which the EIR was prepared at a program level (less detailed). As a result, further environmental review is required of this project. An environmental assessment was prepared for this subdivision to determine if there are any environmental concerns beyond what was considered in the original BSMP EIR (a copy of the environmental assessment is attached).

Although not a requirement, the notion at the time was that Phases 1 and 2 would progress towards development before Phase 3. To staff's knowledge the original two subdivisions have not progressed any further towards development. This is worth noting only because the BSMP requires that several detailed studies must occur, including utility plans describing how the entire BSMP acreage can be most efficiently provided with City services and how to spread those costs among various future developments that may occur. As such this project or other projects, or a combination of them, will need to prepare these studies.

Since adoption of the BSMP, Phases 1 and 2, as well as this and several other properties, were annexed into the City.

## Analysis

***Compatibility with neighboring uses:***

| ***TABLE 1: BORDERING LAND USES*** | |
|---|---|
| On-site | Orchard |
| North: | Eight single story single-family residences |
| South: | Agricultural land with a residence on it. |
| East: | For a portion of the property there is a ranchette-sized lot with a two-story home on it. For the remainder the east property line is bordered by Railroad Avenue, with agricultural land across the street. |
| West: | Orchard |

The property is located in an area that contains many ranchette style homes, as well as properties that remain in agricultural use, typically as orchards. The adoption of the BSMP and annexation into the City enables the area to convert to urban/suburban uses over time, and agriculture uses will be phased out or will become a remnant use on the various ranchette sized properties.

*Impacts on neighboring agricultural uses:* Urban development is typically not very compatible with agricultural uses. Urban residents often do not appreciate living next to agricultural operations, which tend to be noisy, dusty, chemical spraying, etc. For this reason, most of Sutter County agricultural uses are protected from encroaching urban uses. The BSMP has policies requiring distance buffers between these uses – that is along the perimeter of the specific plan area. This plan boundary will become the agricultural/urban interface once the plan area is developed. But internally within the plan area, such as where this property is located, it is expected that all of the properties will eventually be urbanized, so no agricultural/urban interface buffers are necessary for this subdivision.

*Impacts on neighboring single-family residences*: There are eight single-story single-family residences along the north side of this property and one two-story ranchette style residence along the east side of the property (this project will be on three sides of the ranchette property). Historically the City has been respectful of the encroachment of multiple-story residences next to existing single-story homes by limiting neighboring new homes to a single story. As has been the standard with other developments with similar issues, a condition has been included for the proposed new homes that will abut the existing residences. The new residences will be limited to single-story construction, or some residences may have a second story with no overlooking windows. The condition will apply to the proposed lots along the north side of the subdivision and around the single-family residence on the east side of the project.

***BSMP Subdivision and Residential Development and Design Standards***

The BSMP contains specific development standards for subdivisions (parcel sizes, street widths, common landscaping, etc.). As proposed and with the requested conditions of approval, those standards will generally be met with a few very minor exceptions permitted by the plan that are

discussed below. The single-family residential design criteria will be applied as part of the building permit process as no specific residential construction is proposed at this time.

***Variations to the BSMP Residential Development Standards***

The BSMP detailed development standards for all types of uses ensure consistent quality and predictable framework for residential development. The BSMP also has a provision for the Development Services Director to make minor modifications to the standards as long as the resulting neighborhood is in substantial conformance with the overall intent of the ordinance. The applicant proposes to make several minor lot modifications to the residential development standards provided in the BSMP. The proposed modifications are:

| **Proposed Revised BSMP R-2 Zoning Development Standards** | | | | |
|---|---|---|---|---|
| | **Lots under 2,999 square feet** | | **Lots 3,000 square feet or greater** | |
| | **Existing** | **Proposed** | **Existing** | **Proposed** |
| **Minimum front yard** | 12 feet | 15 feet | No change | |
| **Interior side yard** | 3 feet | 5 feet w/exceptions for fireplace, media center | 5 feet | 5 feet w/exceptions for fireplace, media center |
| **Street side yard (corner lots)** | 10 feet but 18.5 feet for garage driveway | 10 feet but 18.5 feet for garage driveway | 10 feet but 18.5 feet for garage driveway | 10 feet but 18.5 feet for garage driveway |

These proposed changes are considered minor, designed to fit the characteristics of this property, and should not generate any issues for the development of neighboring properties.

***Affordable Housing***

Due to the higher residential density range allowed by the MDR land use designation, the BSMP identifies this property as a potential site for affordable housing. There are no policies requiring this but due to the allowed density range of six-14 residences per acre, and the proposed duplex/single-family residential development that will be approximately 10 residences per acre, it is assumed that housing will be more affordable than typical single-family residential development that typically is at a density range of 3-5 residences per acre.

***Streets/Traffic***

The existing roadway system in this area was constructed years ago to serve the needs of the local farming community. Since that time many ranchette properties have been developed in the vicinity for which this rural road system still serves. With oncoming urban development, however, the existing street system will not be adequate to serve development of the Bogue-Stewart Master Plan area. The BSMP determined the need for a significantly enlarged backbone road system for the entire 741-acre area, consisting of two and four lane arterial and collector streets, as well as improvements to effected SR 99 intersections. All of these collector and arterial streets will be provided with pedestrian access, bike lanes and appropriate landscaping. Although each new

project within the BSMP will complete their on-site improvements to those planned streets, improvements to the portion of these streets not fronting on project properties and SR 99 intersection improvements will need to be made also. A review is needed to determine the fair share cost of those improvements that will be borne by all new BSMP related development.

***Availability of City services:***

As it is within the City limits, all City services are available to this property. But just as with the street improvements, the BSMP provides basic infrastructure layout for City water, sewer, and stormwater drainage systems. Also like the street system, these systems will be developed in phases over time. Development cannot occur until these services are designed and installed to a functioning level. There is no schedule when this will occur as it is demand driven.

In addition to the normal economic cycles that often dictate when a residential project can move forward, there is also more review needed before any projects within the BSMP area move forward. The BSMP is an entirely new part of the City, so the City's infrastructure plans must be updated to include this new area. Also, as required by the BSMP environmental document, various environmental studies must also occur prior to developing the property. The additional information that is needed is summarized below:

*Infrastructure Design and Cost*

*Traffic* – As the BSMP is a new area to the City, the backbone street system must be built. As many of the impacted streets will be within the Plan area (Stewart, Bogue, Railroad, etc.) and some will be outside the Plan area (SR 99, Walton, etc.) cost of improving these streets and phasing of the construction to match the development pattern must be determined. The cost of expanding off-site streets and disaggregating the costs amongst new development is needed.

*Water* – Detailed review is needed to determine costs and disaggregating these costs and improvements amongst the various developable properties is needed.

*Sewer* – similar to the above – how to pay for trunk line extensions, etc.

*Drainage* – The BSMP includes a preliminary drainage system that will send drainage water to a proposed pond system within Phases I and 2 (and then to the Gilsizer system), or out to the existing drainage system to the east, but more detail is needed as to disaggregation of costs amongst all developable properties and phasing of the construction of the trunk lines.

*Water well funding* – BSMP EIR Mitigation Measure 3.15-1 requires that the BSMP area pay its fair share for a new City water well.

*Parks* – Within the BSMP's 741 acres are approximately 84.6 acres of parkland and open space to be dedicated to the City. Much of this is within the first two phases - Newkom Ranch and Kells East Ranch subdivisions. Determination is needed as to the amount of reimbursement that will be needed from Phase 3 projects (including this project) in order to have all projects pay their fair share.

As these reviews are relevant to the entire BSMP area or in some cases only the Phase 3 area (476 acres of the 741-acre planning area), how and when these studies will be funded is undetermined.

*Project Reviews* (triggered by the BSMP EIR) that must be prepared for this property include Biological Resources and Cultural Resources.

***Development Agreement***

There is also a proposed Development Agreement that accompanies this subdivision which is beneficial to both the developer and the City. The agreement provides the developer with an approved tentative subdivision map that has 10 years to build with extensions if approved by both parties. As discussed above, there are numerous services that must have detailed plans prepared, development fees determined for fair-share participation by property owners/developers. Considering the time needed for preparation of these programs, and due to a smaller residential market size and always fluctuating market conditions, this time extension benefits the likelihood of this subdivision being built.

For the City the Development Agreement's public benefit is that the developer will pay an additional neighborhood park fee in the amount of $2,300 per multiple-family residence and $3,200 per single-family residence. This will allow the City to provide more neighborhood parks throughout the City than would otherwise have been available.

**Environmental Considerations:**

The environmental assessment was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of requests for comments from other responsible and affected agencies and interested organizations.

Based upon the attached Environmental Assessment 23-07 with reliance on the previously prepared environmental impact report prepared for the BSMP, and the list of identified mitigation measures relevant to this project taken from the BSMP EIR, staff has determined that there is no evidence in the record that the project will generate any new significant effects on the environment not previously discussed and analyzed in the BSMP EIR, and recommends adoption of a mitigated negative declaration for this project. The findings of the mitigated negative declaration are that, with the relevant mitigations adopted from the BSMP EIR for Air Quality, Biological Resources, Cultural Resources, Greenhouse Gases, Hazards and Hazardous Materials, Noise, Transportation/Traffic, Tribal Cultural Resources, and Utilities and Services, the proposed subdivision will not create any new significant impacts to the neighborhood or vicinity that were not previously addressed in the BSMP EIR. As a result, the filing of a mitigated negative declaration is appropriate in accordance with the provisions of CEQA.

**Recommended Actions:**

A. Conduct a Public Hearing and make the necessary findings to:

B. Adopt a Resolution of the Planning Commission of the City of Yuba City approving Environmental Assessment 23-07 by adopting a mitigated negative declaration, subject to

the proposed Conditions of Approval and Mitigation Measures, and contingently approving TSM 23-02, West Railroad Village Subdivision, creating 21 duplex-residential lots and six single-family residential lots, for a total of 48 new residences on approximately 4.8 acres, located on the west side of Railroad Avenue approximately 200 feet south of the intersection of Railroad Avenue and Bogue Road. Assessor's Parcel Number 055-240-002; and

C. Adopt a Resolution of the Planning Commission of Yuba City recommending the City Council of the City of Yuba City adopt a Resolution adopting Environmental Assessment 23-07 that resulted in a determination of a mitigated negative declaration for Tentative Subdivision Map (TSM) 23-02 West Railroad Village, and approving an Uncodified Ordinance for a Development Agreement for TSM 23-02, on approximately 4.8 acres, located on the west side of Railroad Avenue approximately 200 feet south of Bogue Road; Assessor's Parcel Number 055-240-002.

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**Attachments:**

1. Location Map
2. Planning Commission Resolution PC 24-01
   - Exhibit A: Tentative Subdivision Map 23-02, West Railroad Village
   - Exhibit B: Conditions of Approval and Mitigation Measures for TSM 23-02
3. Planning Commission Resolution PC 24-02
   - Exhibit A: West Railroad Village Draft Development Agreement
4. West Railroad Village Development Standards
5. Environmental Assessment 23-07, and the Mitigation Monitoring and Reporting Program

# ATTACHMENT 1

CAMBRIDGE
JEFFREY
COLUMBIA
SOUTHLAND
PACIFICA
TRIDENT
MORRISON BEND
HASTINGS
BOGUE
Project Site
RAILROAD
TUSCAN

# ATTACHMENT 2

**PLANNING COMMISSION RESOLUTION NO. PC 24-01**

**RESOLUTION OF THE PLANING COMMISSION OF THE CITY OF YUBA CITY (PLANNING COMMISSION) APPROVING ENVIRONMENTAL ASSESSMENT 23-07 BY ADOPTING A MITIGATED NEGATIVE DECLARATION, SUBJECT TO THE CONDITIONS OF APPROVAL AND MITIGATION MEASURES, AND CONTINGENTLY APPROVING TENTATIVE SUBDIVISION MAP (TSM) 23-02, WEST RAILROAD VILLAGE SUBDIVISON, CREATING 21 DUPLEX RESIDENTIAL LOTS AND SIX SINGLE-FAMILY RESIDENTAL LOTS, FOR A TOTAL OF 48 NEW RESIDENCES ON APPROXIMATELY 4.8 ACRES, LOCATED ON THE WEST SIDE OF RAILROAD AVENUE APPROXIMATELY 200 FEET SOUTH OF BOGUE ROAD; ASSESSOR'S PARCEL NUMBER 055-240-002.**

**WHEREAS,** the City received the TSM 23-02 application from Junior Thiara to subdivide the approximately 4.8-acre property that is located within the Bogue-Stewart Master Plan (BSMP). TSM 23-02 would create 21 duplex residential lots and six single-family residential lots and an associated Development Agreement that would allow for 48 new residences, for an average density of approximately 10 residences per acre ("collectively "Project"); and

**WHEREAS,** this property owner wished to develop their property to urban levels and the property is located within the Bogue-Stewart Master Plan (BSMP) and the property was recently annexed into the Yuba City city limits; and

**WHEREAS,** there is also requested a Development Agreement that accompanies the proposed subdivision, which must be approved by the City Council; and

**WHEREAS,** pursuant to the authority and the criteria contained in the California Environmental Quality Act of 1970 ("CEQA") with the City as the Lead Agency, the Planning Commission reviewed related Environmental Assessment 23-07 which was prepared for this subdivision and Development Agreement (collectively "Project") resulting in a determination of a Mitigated Negative Declaration (MND), which concluded that this Project will not generate any new significant environmental impacts beyond those considered in the BSMP EIR, and provided mitigations from the previously prepared EIR from the BSMP for which overriding considerations were made; and

**WHEREAS,** on January 4, 2024, the City sent to all responsible and trustee agencies and also published in the Appeal Democrat, a Notice of Intent to adopt a mitigated negative declaration and that no comments were received during the 20-day comment period; and

**WHEREAS,** a review of the policies and programs in the BSMP as well as the General Plan and Zoning Regulations determined that the proposed TSM 23-02 and the associated Development Agreement was consistent with the BSMP, General Plan policies and programs, and the Zoning Regulations; and

**WHEREAS,** on January 24, 2024, the Planning Commission concurrently conducted a duly noticed public hearing on TSM 23-02 and the associated Development Agreement, at which time it received input from City staff, the applicant, the public comment period was opened, and public testimony and evidence, both written and oral, was considered by the Planning Commission, after which public testimony was closed; and

**WHEREAS,** the Planning Commission has reviewed all associated documents prepared for the Project including those related to the application for TSM 23-02 and the Development Agreement, and all of the evidence received by the Planning Commission; and

**WHEREAS,** the Planning Commission now desires to contingently approve TSM 23-02 such that no decision of approval of TSM 23-02 becomes final and effective until immediately after the City Council adopts the MND (EA 23-07) and approves the Development Agreement, and if no such approval occurs within 180 day of the adoption of this Resolution, then the Planning Commission intends TSM 23-02 be set for further consideration and a final decision by the Planning Commission; and

**WHEREAS,** all legal prerequisites to the adoption of this resolution have occurred.

**NOW, THEREFORE, BE IT RESOLVED** the Planning Commission of the City of Yuba City resolves and orders as follows:

1. Recitals. The Planning Commission hereby specifically finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.

2. CEQA Finding. The Planning Commission finds and determines that there is no substantial evidence in the record that TSM 23-02 and the associated development agreement may have a significant effect on the environment beyond what was considered by the Bogue-Stewart Master Plan EIR as identified by the MND prepared in Environmental Assessment 23-07. Additionally, the Planning Commission recommends that the City Council find and determine that an environmental assessment/initial study was prepared for this Project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines and reflects the City Council's independent judgment and analysis. The process included the distribution of requests for comments from other responsible or affected agencies and interested organizations. Preparation of Environmental Assessment 23-07 necessitated a thorough review of the proposed Project and relevant environmental issues and considered previously prepared environmental and technical studies. While the proposed Project could have a potentially significant effect on the environment, based on its independent judgement and analysis the Planning Commission finds that feasible mitigation measures or alternatives have been incorporated into the Project in order to avoid the effects to a point where clearly no significant effect on the environment will occur over and above those adverse impacts provided in the EIR prepared for the BSMP, and there is no substantial evidence in the record that this Project may have any further direct, indirect or cumulative effects on the environment that are potentially significant. The proposed Project will not result in any adverse effects which fall within the "Mandatory Findings of Significance" contained in Section 15065 of the State CEQA Guidelines. The Project-specific mitigation measures included in the Project to avoid potentially significant effects are set forth in the attached Initial Study/Mitigated Negative Declaration and accompanying Mitigation Monitoring and Reporting Program. With the Project specific mitigations imposed, there is no substantial evidence in the record that this Project may have significant direct, indirect, or cumulative effects on the environment beyond what was considered in the Bogue-Stewart Master Plan EIR. As such, the Planning Commission recommends the City Council also find and determine that in light of the entire administrative record and the substantial evidence before it, the Project has been adequately environmentally assessed as required by CEQA per Environmental Assessment 23-07.

3. Adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Based on the foregoing, the Planning Commission adopts the Mitigated Negative

Declaration prepared for the Project, including the associated Mitigation Monitoring and Reporting Program, as the Project will not result in any significant, adverse environmental impacts beyond what was determined in the BSMP EIR with the mitigations proposed.

4. Subdivision Findings. None of the following findings required by Yuba City Municipal Code Section 8-2.609, and the California Subdivision Map Act Section 66474 that would require the City to deny approval of a tentative map apply to this Project:

   a. *The proposed tentative subdivision map is not consistent with the applicable general plan and specific plan:*

      Evidence: The subdivision is consistent with the general plan and the BSMP. The subdivision will create lots for duplexes and single-family residences. The 4.8-acre property is within the BSMP (adopted as a specific plan) as well as the Yuba City General Plan. The proposed 21 duplex lots and six single-family residential lots will have a density of approximately 10 residences per gross acre. This density is consistent with the Medium Density Residential BSMP and General Plan designations, both of which allow a density range of six to 14 residences per gross acre.

      The Project fronts on Railroad Avenue, which is designated as a Collector street in the BSMP. The applicant will make their fair share improvements to its on-site portions of that street to the collector standard. The Traffic and Transportation portion of EIR prepared for the BSMP also calls for this and other developments to pay their fair share of street improvements to other general Plan level streets within the BSMP, including the SR 99/Bogue Road intersection, for which this Project will determine and pay their fair share for those street improvements. As such TSM 23-02 is consistent with the Transportation and Traffic Element of the General Plan and BSMP.

      The proposed 48 new residences are consistent with Housing Element policies for new housing, especially the proposed 21 duplex lots that will be at a higher density, which is also encouraged by the Housing Element.

      The analysis of the Project found that, with the conditions of approval and mitigation measures, it meets all of the standards for public services and utilities and complies with the infrastructure policies of the BSMP and the General plan.

      As determined by the mitigated negative declaration prepared for the subdivision and accompanying development agreement, with the proposed mitigation measures, there are no significant impacts on agricultural land, biological resources, water quality, and air quality above what was considered by the BSMP EIR. Further, the Project will be paying development impact fees determined by the BSMP and City-wide development impact fees for its fair-share of parkland improvements. Thus, the Project is consistent with the Environmental Conservation Element of the General Plan.

   b. *The design and improvement of the tentative subdivision map is not consistent with applicable general and specific plans or adopted City standards:*

      Evidence: The design and improvement of Tentative Subdivision Map 23-02 is consistent with the City's general plan and the BSMP. As discussed in item "a" above, this project is consistent with the City's General Plan goals and policies including the adopted density ranges for the MDR designated land. The proposed parcel sizes meet the BSMP minimum

parcel size and other adopted development standards, with several minor development standard modifications approved by the Director and are therefore of adequate size and configuration to accommodate the residences that will be permitted on them. The subdivision will be improved with a local street that meets BSMP standards, make appropriate improvements to Railroad Avenue, and pay its fair share towards improving the overall street network determined in the BSMP. The Project will also pay its fair share towards local park improvements, school facilities and other City and Sutter County services.

c. *That the site is not physically suited for the density of development:*

Evidence: The project site is physically suited for the density of development. The site is level and will be served by the full range of City services. Each new lot will meet or exceed the minimum lot sizes required by the BSMP. The proposed subdivision was thoroughly analyzed and compared to the BSMP and the EIR that was prepared for the BSMP, determining that the proposed density of residential development was appropriate for this 4.80-acre site and is physically suited for the proposed development density.

d. *That the site is not physically suited for the type of development.*

Evidence: The site is physically suited for TSM 23-02. The West Railroad Village Subdivision was thoroughly analyzed and compared to the BSMP, and all of the relevant environmental issues that were addressed in the EIR that was prepared for the BSMP, determining that the proposed development meets all adopted standards and requirements except for several minor modifications approved by the Development Services Director by a process that is consistent with BSMP policies,

e. *That the design of the subdivision maps or likely improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat:*

Evidence: The design of TSM 23-02 or its improvements is not likely to cause substantial environmental damage or injure fish or wildlife or their habitat. The mitigation measures within the BSMP EIR reduced most of the potentially significant impacts on biological resources to a less than significant level. Those mitigation measures are carried forward to this Project, thus not causing significant environmental damage and avoiding injury to fish or wildlife. There remains significant cumulative wildlife loss of habitat impacts for which overriding considerations were made by the City Council upon adoption of the BSMP EIR.

f. *That the design of the subdivision maps or the type of improvements is likely to cause serious public health problems.*

Evidence: TSM 23-02 is not likely to cause health problems. Every new residential lot will be connected to City water, sewer and storm drainage systems which will avoid public health problems.

g. *That the design of the subdivision maps or the type of improvements will conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision:*

Evidence: TSM 23-02 will not conflict with any easements. The subdivision will be served by public streets that are dedicated to the City for public use and the parks and open spaces will be on land owned by the City. There is no use of private streets or other types of easements that the project would conflict with.

5. Flood Finding. There is adequate flood protection for the project as required by Title 6, Chapter 9, Article 6 of the Municipal Code.

   Evidence: This proposal complies with this finding as the Sutter Butte Flood Control Agency (SBFCA) is the "Local Flood Management Agency" for the Sutter-Butte Basin and as such, has the responsibility to prepare an annual report demonstrating adequate progress as defined in California Government Code Section 645007 (a). SBFCA has prepared Adequate Progress Report Updates for ULOP and transmitted them to the Central Valley Flood Protection Board. As such this site has adequate flood protection. Additionally, the City has imposed conditions on the subdivision that will protect property within the area to the urban level in urban areas and urbanizing areas.

6. Contingent approval of TSM 23-02 with Conditions**.** Based on the aforementioned findings, the Planning Commission hereby approves TSM 23-02, West Railroad Village, as shown in Exhibit A, subject to the conditions of approval and mitigation measures set forth in Exhibit B attached hereto, which approvals are contingent upon the following:

   The approval of TSM 23-02 shall become final and effective only after the City Council of the City of Yuba City i) adopts the Mitigated Negative Declaration (EA 23-07) and ii) approves the associated Development Agreement (collectively "Council Approvals"). If all of the Council Approvals are not made within 180 days of the adoption of this Resolution, then TSM 23-02 shall be returned to the Planning Commission for further consideration and a final decision. If Council Approvals are made within 180 days of the adoption of the Resolution, but any change is made by the Council to any of the Council Approvals in a manner that could reasonably affect the findings of the Planning Commission, or require a modification or addition of a condition of approval to be consistent with the Council Approval, then TSM 23-02 shall be returned to the Planning Commission for further consideration and a final decision.

7. Final Action and Appeals**.** This action shall become final 10 days after, and only upon, the Council Approvals including the MND and adoption of the Development Agreement, unless within such 10 days an appeal is filed with the City Clerk in accordance with the provisions of the Zoning Regulations.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on January 24, 2024, by Commissioner _____ who moved its adoption, which motion was seconded by Commissioner _____ and carried by the following vote:

Ayes:

Noes:

Absent:

Recused:

By order of the Planning Commission of the City of Yuba City.

_____
Jackie Sillman, Planning Commission Chair

ATTEST:

_____
Benjamin Moody, Secretary to the Planning Commission

Attachments:
Exhibit A: Tentative Subdivision Map 23-02 West Railroad Village
Exhibit B: Conditions of Approval and Mitigation Measures for TSM 23-02

# EXHIBIT A

TENTATIVE SUBDIVISION MAP

# WEST RAILROAD VILLAGE - TSM 2023-002

YUBA CITY, CALIFORNIA

SUBMITTED JANUARY 9, 2023 REVISED DECEMBER 13, 2023

## PROJECT NOTES

**OWNER**
JUNIOR THIARA
PO BOX 3546
YUBA CITY, CA 95992
CONTACT: JUNIOR THIARA
PHONE: (530) 682-5861

**APPLICANT**
JUNIOR THIARA
PO BOX 3546
YUBA CITY, CA 95992
CONTACT: JUNIOR THIARA
PHONE: (530) 682-5861

**ENGINEER/SURVEYOR**
MHM INCORPORATED
1204 E STREET, P.O. BOX B
MARYSVILLE, CA 95901
CONTACT: SEAN MINARD, P.E., P.L.S.
PHONE: (530) 742-6485

**ASSESSOR'S PARCEL NO.**
APN 055-240-002 (4.80 AC)

**AREA OF TENTATIVE MAP**
4.80 GROSS ACRE

**EXISTING USE**
ORCHARD

**EXISTING GENERAL PLAN DESIGNATION**
LOW-MEDIUM DENSITY RESIDENTIAL

**PROPOSED GENERAL PLAN DESIGNATION**
LOW-MEDIUM DENSITY RESIDENTIAL

**EXISTING ZONING**
BSMP R-2

**PROPOSED ZONING**
BSMP R-2

**LEVEE PROTECTION**
LEVEE DISTRICT NO. 1 OF SUTTER COUNTY

**ELEMENTARTY SCHOOL DISTRICT**
YUBA CITY UNIFIED SCHOOL DISTRICT

**HIGH SCHOOL DISTRICT**
YUBA CITY UNIFIED SCHOOL DISTRICT

**IRRIGATION DISTRICT**
NONE - INDIVIDUAL WATER WELLS

**FIRE PROTECTION**
SERVICE AREA G - CITY OF YUBA CITY FIRE DEPARTMENT

**LAW ENFORCEMENT**
CITY OF YUBA CITY POLICE

**SANITARY SEWER**
CITY OF YUBA CITY PUBLIC WORKS

**DOMESTIC WATER**
CITY OF YUBA CITY PUBLIC WORKS

**STORM DRAINAGE**
CITY OF YUBA CITY PUBLIC WORKS AND GILSIZER DRAINAGE DISTRICT

**ELECTRICITY**
PACIFIC GAS AND ELECTRIC

**NATURAL GAS (OPTIONAL)**
PACIFIC GAS AND ELECTRIC

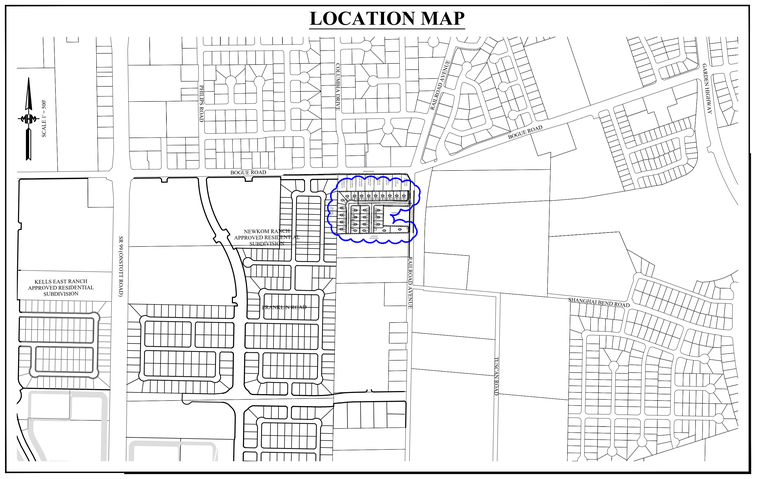
**COMMUNICATION**
AT&T AND COMCAST

**CABLE (OPTIONAL)**
COMCAST

**GENERAL NOTES:**

1. SUBDIVIDER RESERVES THE RIGHT TO PHASE DEVELOPMENT AND FILE MULTIPLE FINAL MAPS PURSUANT TO SECTION 66456.1 (A) OF THE SUBDIVISION MAP ACT. THIS PROJECT COULD BE 1 TO 3 PHASES.
2. A 12.0 FOOT PUBLIC UTILITY EASEMENT SHALL BE LOCATED PROVIDED ON ALL STREETS WITH 10 FEET BEHIND SIDEWALK AND 2.0 FEET LOCATED UNDER SIDEWALK. ADJACENT TO CUL-DE-SAC BULBS THE PUBLIC UTILITY EASEMENT SHALL BE 10 FEET BEHIND SIDEWALK UNLESS OTHERWISE DIRECTED BY THE CITY ENGINEER.
3. THIS EXHIBIT IS FOR TENTATIVE MAP PURPOSES ONLY, ACTUAL DIMENSIONS, ROAD ALIGNMENTS, ACREAGE, AND YIELDS ARE TO BE VERIFIED PRIOR TO FINAL MAP.
4. THIS IS AN APPLICATION FOR A TENTATIVE SUBDIVISION MAP.
5. VILLAGE NUMBERING IS FOR IDENTIFICATION PURPOSES ONLY AND DOES NOT INDICATE PHASING ORDER OF DEVELOPMENT. ULTIMATE DEVELOPMENT PHASING WILL BE ORDERLY AND WILL BE DETERMINED AT FINAL MAP AND/OR IMPROVEMENT PLAN STAGE. TWO POTENTIAL PHASES ARE SHOWN BUT DEVELOPER RESERVES RIGHT TO RECORD WITH MORE OR LESS.
6. ALL EXISTING STRUCTURES, SEPTIC TANKS, AND WELLS TO BE REMOVED OR DESTROYED PRIOR TO CONSTRUCTION.
7. STREET TREES SHALL BE PLANTED PURSUANT TO CITY OF YUBA CITY STANDARDS. ADDITIONAL DETAIL SHALL BE PROVIDED ON THE IMPROVEMENT PLANS.
8. OWNERS, APPLICANT, ENGINEER, AND SURVEYOR SHALL RECEIVE ANY COMMUNICATIONS AND/OR NOTICES RELATED TO THIS PROJECT. MHM INC, SEAN MINARD, IS THE ENGINEER AND SURVEYOR OF RECORD FOR THE TENTATIVE MAP.

## LOCATION MAP




## LAND USE SUMMARY

LOT SUMMARY*

| | | | |
|---|---|---|---|
| VILLAGE NO. 1 = | 16 LOTS, 29 DU | 2.98 AC | 09.73 DU/AC |
| VILLAGE NO. 2 = | 11 LOTS, 19 DU | 1.77 AC | 10.73 DU/AC |
| SUBTOTAL = (RESIDENTIAL) | 27 LOTS, 48 DU | 4.75 AC | 10.11 DU/AC |
| RAILROAD AVENUE | | 0.05 AC | |
| SUBTOTAL = (ROADWAY) | | 0.05 AC | |
| TOTAL = | | 4.80 AC | |

* VILLAGE NO. 1 HAS 13 DUPLEX LOTS AND 3 SINGLE FAMILY DETACHED HOMES FOR A TOTAL OF 29 DWELLING UNITS.
* VILLAGE NO. 2 HAS 8 DUPLEX LOTS AND 3 SINGLE FAMILY DETACHED HOME FOR TOTAL OF 19 DWELLING UNITS.

**CITY OF YUBA CITY APPROVAL:**
THE CITY OF YUBA CITY PLANNING COMMISSION HAS CONSIDERED AND APPROVED RESOLUTION 24-0XX APPROVING TENTATIVE SUBDIVISION MAP NO. 2023-002 DURING THE PLANNING COMMISSION MEETING ON _____, 2024.

CITY OF YUBA CITY DATE:

**LEGAL DESCRIPTION (EXISTING PARCELS):**

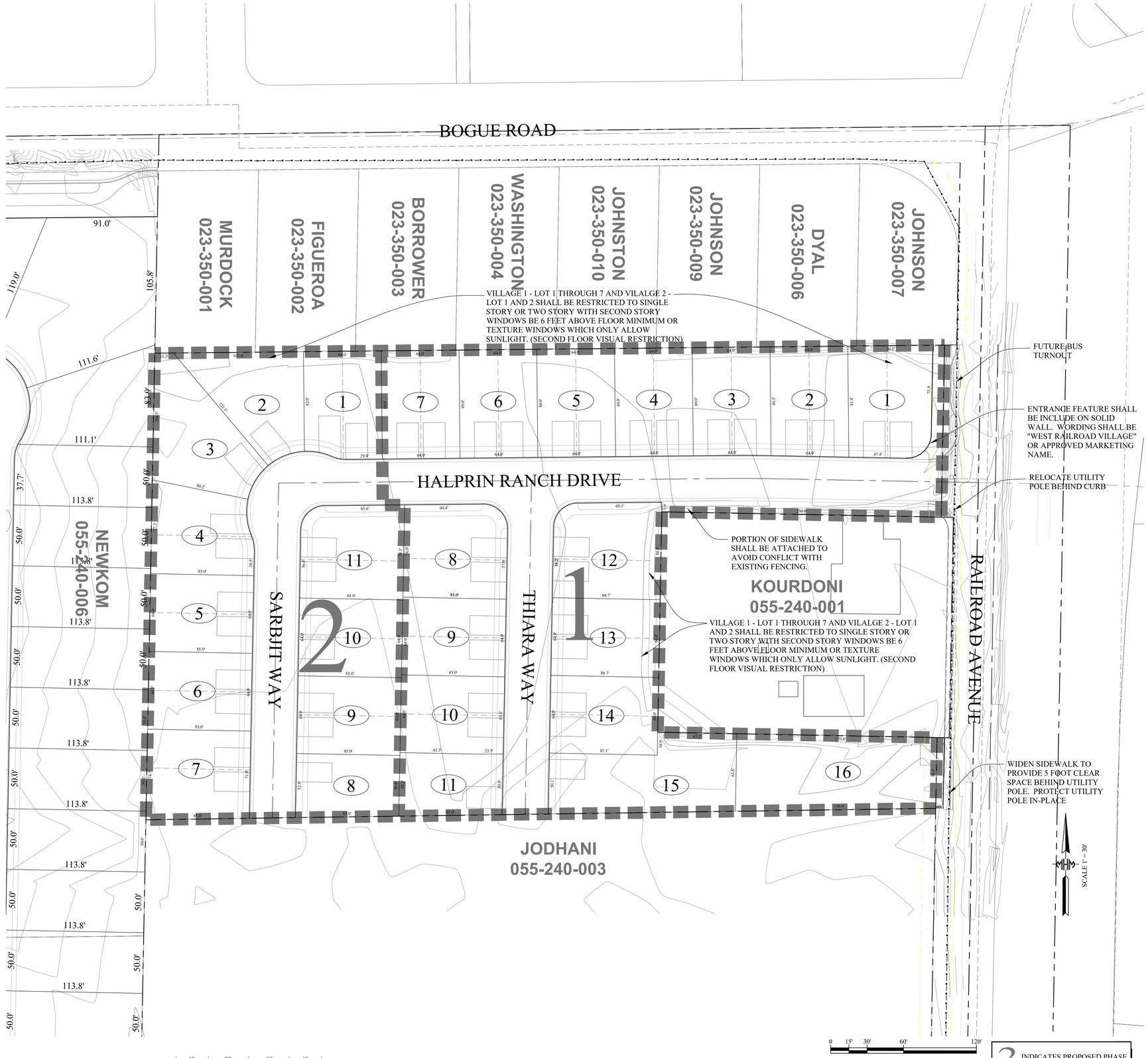
THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SUTTER, UNINCORPORATED AREA, DESCRIBED AS FOLLOWS:

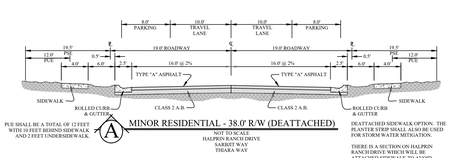
PARCEL 1, AS SHOWN ON PARCEL MAP NO. 1011, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SUTTER COUNTY, CALIFORNIA, ON SEPTEMBER 5, 2002, IN BOOK 6 OF PARCEL MAPS, PAGE 91.

APN: 055-240-002-000

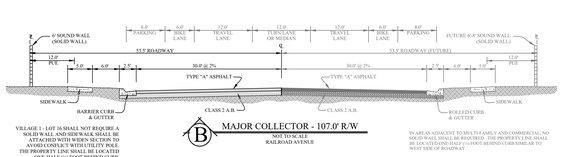
**SURVEYORS STATEMENT:**
I HEREBY STATE THAT ALL EASEMENTS OF RECORD ARE SHOWN AND LABELED PER PRELIMINARY TITLE REPORT BY OLD REPUBLIC TITLE COMPANY ORDER NUMBER 4211019682-JS DATED JUNE 24, 2022.

SEAN MINARD, P.E. 52593, P.L.S. 8397




A MINOR RESIDENTIAL - 38.0' R/W (DEATTACHED)
NOT TO SCALE
HALPRIN RANCH DRIVE
SARBJIT WAY
THIARA WAY




B MAJOR COLLECTOR - 107.0' R/W
NOT TO SCALE
RAILROAD AVENUE

2 INDICATES PROPOSED PHASE


M·H·M
ENGINEERS & SURVEYORS SINCE 1892
1204 E STREET, P.O. BOX B
MARYSVILLE, CA 95901
TEL: 530.742.6485
FAX: 530.742.5639

# EXHIBIT B

# CITY OF YUBA CITY
# CONDITIONS OF APPROVAL
# TENTATIVE SUBDIVISION MAP 23-02
# January 24, 2024

**West Railroad Village**
**APN: 055-240-002**

## NOTICE TO PROJECT APPLICANT

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within ninety (90) calendar days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

## IMPORTANT: PLEASE READ CAREFULLY

Please note that this project is subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through tentative subdivision map review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings can be made.

All discretionary conditions of approval will ultimately be deemed mandatory unless appealed by the applicant to the City Council within ten (10) days after the decision by the Planning Commission. In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the City Clerk. The appeal shall state the grounds for the appeal and wherein the Commission failed to conform to the requirements of the zoning ordinance. This should include identification of the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld.

These conditions are applicable to any person or entity making use of this tentative subdivision map, and references to "developer" or "applicant" herein also include any applicant, property owner, owner, leasee, operator, or any other person or entity making use of this tentative subdivision map.

## CONDITIONS OF APPROVAL

1. To the furthest extent allowed by law, applicant/property owner shall indemnify, hold harmless and defend City and each of its officers, officials, employees, consultants, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures,

damages and costs (including attorney's fees, litigation expenses and administrative record preparation costs) arising from, resulting from, or in connection with any Third-Party Action (as hereinafter defined). The term "Third Party Action" collectively means any legal action or other proceeding instituted by (i) a third party or parties, or (ii) a governmental body, agency or official other than the City, that: (a) challenges or contests any or all of these Conditions of Approval or any approval associated with entitlements associated with the project (collectively "Approvals"); or (b) claims or alleges a violation of CEQA or another law in connection with the Approvals by the City, or the grant, issuance or approval by the City of any or all Approvals. Applicant's/property owner's obligations under this paragraph shall apply regardless of whether City or any of its officers, officials, employees, consultants, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties forfeitures, costs or damages caused solely by the active negligence or willful misconduct of the City or any of its officers, officials, employees, agents or volunteers. The provisions of this section shall survive any termination, revocation, overturn, or expiration of an approval.

Nothing in this section shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any claim, and if the City does decide to independently defend a claim, the applicant/property owner shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Applicant/property owner shall submit all documents filed in the Third-Party Action for review and approval of the City Attorney prior to filing of said documents on behalf of the City.

The City may, at any time, require the applicant to reimburse the City for costs that have been, or which the City reasonably anticipates will be, incurred by the City during the course of processing or defending any Third-Party Actions. The City shall provide applicant/property owner with an invoice detailing all reasonable costs incurred. Applicant/property owner shall tender to the City payment-in-full of all reasonable and necessary costs within thirty (30) days from the date upon the invoice. Applicant/property owner shall contact the City within a reasonable time to arrange any extension of the thirty (30) day time period for payment-in-full of the invoiced amount. Applicant/property owner further acknowledges and agrees, failure to timely tender payment-in-full to the City shall be considered a breach and non-compliance with the conditions of approval for the project. Applicant/property owner shall also be required, upon request of the City, to deposit two month's estimated costs anticipated by the City to be incurred, which may be used by the City as a draw down account to maintain a positive balance pending tender of payment by Applicant/property owner as noted herein.

2. The lot design on the subdivision maps shall be designed in conformance with the TSM 23-02, as appropriate with the attached West Railroad Development Standards, and as approved by the Planning Commission

3. The development and operation of the project shall comply with all CEQA mitigation measures identified in Environmental Assessment 23-07 dated January 4, 2024.

4. All City adopted Development Impact Fees and other applicable fees shall be paid pursuant to the Yuba City Municipal Code. These fees include, but are not limited to:

a. Applicable Yuba-Sutter Transit Impact Fees;
b. BSMP and associated EIR reimbursement fees;
c. Applicable BSMP Infrastructure fees (signalized intersections, enhanced pedestrian intersection at Bogue/Railroad, etc) fees;
d. BSMP park fees;
e. Any other applicable fees in effect at time of development.

Fees are to be determined prior to filing the final map, or as determined by the Public Works Director.

5. The development and operation of the project shall comply with all local, state, and federal codes (including Building and Fire codes) and local development standards.

    a. The Developer or Representative shall obtain an Encroachment Permit from the City prior to performing any work within public rights of way.

6. To limit visibility, provide privacy and to minimize conflicting views of adjacent properties, Tentative Subdivision Map 23-02, is restricted as follows:

    a. Village 1 - Lots 1 through 7, lot 12, Lot 13, and Village 2 - Lots 1 and 2 are to be restricted to single-story construction or any back-facing windowsills on the upper floor of a two-story residence are to be a minimum of 6.0 feet above the floor, and additionally, shall not establish balconies, or as otherwise approved by the Development Services Director.

7. Village 1 - Lot 1, along Railroad Avenue, shall be constructed with a six-foot high solid wall (i.e. masonry, concrete, proto II, brick), with pilasters at each end. At the entrance to the subdivision, the block wall shall be “stepped down” in a decorative manner that is acceptable to the Public Works Director.

8. At minimum, a new 6-foot-tall, residential wood fence shall be established along the common property boundary with adjacent developed lots to ensure a cohesive aesthetic look.

9. To help contain fugitive dust, construction sites shall be watered down during the construction phase of the project or as directed by the Public Works Department.

10. Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom) if soil material has been carried onto adjacent paved, public thoroughfares from the project site.

11. The Developer, at their expense, shall be solely responsible for all quality control associated with the project. The quality control shall include, but is not limited to, the following: survey work, potholing existing utilities, all geotechnical testing, soil reports, concrete testing, asphalt testing, and any other required special testing/inspections. The City will only perform the necessary testing to assure compliance.

12. Storage of construction material is not allowed in the travel way.

13. A Subdivision Agreement outlining any costs (hot tap, connection fee, fair share contribution, etc.) associated with the development shall be accepted by the City prior to recordation of map, or prior to approval of the Improvement Plans, whichever comes first.

## PRIOR TO ISSUANCE OF A GRADING PERMIT

14. The improvement plans for the development of the subject property shall include all measures required to ensure that no increased drainage runoff resulting from the development of the property flow onto the adjacent lands or that the development will not impede the drainage from those properties. The rear yards and/or side yards of the lots that are created by this subdivision that are adjacent to existing residential development shall have the same finish grade elevation as those lots within tolerances as approved by the Public Works Department. If retaining walls are required, they shall be constructed of concrete, brick, or masonry block.

15. A master grading plan shall be submitted to the Public Works Department as part of the improvement plans with the first subdivision phase.

## PRIOR TO APPROVAL OF THE IMPROVEMENT PLANS

16. Obtain all necessary approvals from City, State, and Federal agencies, utilities and other effected parties that are required for the project including, but not limited to, the preparation of drawings, studies, reports and permit applications, and payment of fees. Prior to City approval of the Improvement Plans, the Developer shall provide evidence, to the satisfaction of the Public Works Department, that all such obligations have been met.

17. The Developer shall submit to the City a proposed phased infrastructure improvement plan that coordinates with the BSMP, the project DA, and the proposed parcels to be developed. The plan should identify needed infrastructure, (including water, sewer, and stormwater drainage), fencing, and landscaping, and the plan should also consider traffic impacts and site access by phases. The subdivision, and associated improvements, shall conform to all stormwater MS4 requirements. All mitigation measures associated with the project are to be met. The City reserves the right for final determination of configuration of proposed infrastructure.

18. The plans shall indicate the locations of all septic and leach field areas, and all wells. Any septic areas and wells that are to be destroyed shall be demolished in accordance with Sutter County Environmental Health Department requirements.

19. The Developer shall dedicate right-of-way to the City as follows, or as approved by the Public Works Director:
    a. Railroad Avenue (west of center line):

        i. Lot 1 shall have right-of-way dedicated to a width of 53.5 feet (centerline to back of new 6.0-foot-high solid wall), including a 12.0-foot PUE along the sidewalk with 2.0-foot located underneath the sidewalk.
        ii. Lot 16 shall have right-of-way dedicated to a width of 38.0 feet (centerline to 0.5 feet back of sidewalk), including a 12.0-foot PUE along the sidewalk with 2.0-foot located underneath the sidewalk.
    b. Interior residential streets (Halprin Ranch Drive, Sarbjit Way, and Thiara Way):

        i. Right-of-way shall be dedicated to a width of 38.0 feet together with a 19.5-foot PSE behind the right-of-way. A 12.0-foot-wide PUE shall be

dedicated along the sidewalk with 2.0-foot located underneath the sidewalk along each side of the roadway.

c. All necessary right of way and easements are to be dedicated with the recordation of the Final Map.

20. The Developer shall construct frontage improvements to City standards as follows, or as approved by the Public Works Director:

a. Railroad Avenue:

i. 30.0-foot-wide asphalt road section – centerline of Railroad Avenue to west lip of gutter; reduced as required to protect the existing power pole at Lot 16 in a manner acceptable to the Public Works Director.
ii. 2.5-foot-wide barrier curb and gutter.
iii. 6.0-foot-wide planter strip on Lot 1; expanded as required to protect the existing power pole at Lot 16 in a manner acceptable to the Public Works Director.
iv. 5.0-foot minimum width detached sidewalk on Lot 1 and 5.0-foot minimum width attached sidewalk on Lot 16; widen as required to protect the existing power pole in place acceptable to the Public Work Director.
v. Landscaping and irrigation between the sidewalk, solid wall, and parkway strip.
vi. 6.0-foot-high solid wall (i.e. concrete, masonry block, brick, proto II) (Lot 1 only)
vii. Streetlight(s);
viii. Fire hydrant(s);
ix. Storm drainage facilities;
x. Roadway striping;
xi. Roadway signage;
xii. Relocation of the existing air release valve to a location acceptable to the Public Works Director.

b. Interior residential streets (Halprin Ranch Drive, Sarbjit Way, and Thiara Way):

i. Streets shall be designed/constructed to a width of 37.0 feet back of curb to back of curb with parking permitted on both sides. Frontage improvements shall include street section, curb, gutter, 6.0-foot-wide landscape parkway strip (measured from back of curb) [parkway strip along Kourdoni's property up to 6.0 feet; no sidewalk along Kourdoni's property], 4.0-foot-wide sidewalk, street trees, and streetlights.

1. The landscape plan for the front yard, including the area between the sidewalk and curb, shall be handled by each individual lot improvement. The irrigation system shall be designed to accommodate the street tree and shall meet the City's Model Water Efficient Landscape Ordinance.
2. The landscaping in the parkway strip is to have a coordinated theme referenced on the public improvement plans, or as approved by the Development Services Director.
3. The only hard surface (concrete or pavers) that can be placed in the street planter area other than the standard driveway

serving the residence is 18" wide strips to accommodate the wheel path of vehicles unless authorized/approved by the Public Works Director.

21. At the existing power poles along Railroad Avenue:

    a. At Lot 16 of Village 1; pole is to be adjusted in accordance with the City's Underground Policy or as accepted by the Public Works Director.
    b. At Halprin Ranch Drive; pole is to be relocated behind the curb to a location acceptable to the Public Works Director.

22. The development shall comply with the Bogue-Stewart Master Plan Master Drainage Plan or as approved by the Public Works Director.

23. The development shall comply with Yuba City's stormwater requirements and Post-Construction Standards Plan. The Post Construction information can be found here: https://www.yubacity.net/city_hall/departments/public_works/engineering/stormwater_management

24. All development shall be designed to local, state, and federal flood standards.

25. The structural section of all road improvements shall be designed using the Caltrans empirical R-value method. A geotechnical investigation shall determine the R-value of the existing soil in accordance with the Caltrans Highway Design Manual. The structural section shall be designed to the following standards:

    a. Use 3" minimum for residential, 4" minimum for collectors and 6" minimum for arterials, of 'Type A' asphaltic concrete over Class 2 aggregate base (the thickness of the base shall be designed to the R-value of the soil)
    b. Use a traffic index of 6 for residential streets
    c. Use a traffic index of 7 for collector streets
    d. Use a traffic index of 10 for arterial streets

    A copy of the geotechnical investigation, including R-value determination, test locations and structural section calculations, shall be submitted with the first improvement plan check.

26. Striping, pavement markings and traffic signage shall be provided on all streets as necessary and as required by the Public Works Department. Signage restricting parking and red painted curbing shall be installed where appropriate. Speed limit signs shall be installed at locations determined by the Public Works Department. All required signs shall be shown on the Improvement Plans.

27. The street trees and street lighting are public improvements which shall meet the Parks Division Planting Standards and City Standard Details and be included in the Improvement Plans and Specifications for the subdivision when the improvement plans are submitted for the first improvement plan check.

28. The Improvement Plans shall show provisions for the placement of centralized mail delivery units in the PUE. Developer shall provide a concrete base for placement of the centralized mail delivery unit. Specifications and location of such base shall be determined pursuant to the applicable requirements of the Postal Service and the City Public Works Department, with due consideration for street light location, traffic safety, security and consumer convenience.

29. Required Improvement Plan Notes:

    a. "Any excess materials shall be considered the property of the contractor/owner and shall be disposed of away from the job site in accordance with applicable local, state and federal regulations."
    b. "During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. The Contractor shall be responsible for all construction equipment to be equipped with manufacturers approved muffler baffles. Failure to do so may result in the issuance of an order to stop work."
    c. "If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Sutter County Environmental Health Department, the Fire Department, the Police Department, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies."
    d. "The Contractor(s) shall be required to maintain traffic flow on affected roadways during non-working hours, and to minimize traffic restriction during construction. The Contractor shall be required to follow traffic safety measures in accordance with the "California Manual of Uniform Traffic Control Devices, latest edition." The City of Yuba City emergency service providers shall be notified, at least two working days in advance, of proposed construction scheduled by the contractor(s)."
    e. "Soil shall not be treated with lime or other cementitious material without prior express permission by the Public Works Department."
    f. "Where an excavation for a trench and/or structure is five (5) feet deep or more, the contractor shall conform to O.S.H.A. requirements. The contractor shall provide a copy of the approved O.S.H.A. permit, and shoring details and calculations prepared by California licensed structural engineer to the Public Works Department, prior to beginning construction."
    g. "Should any field conditions, conflicts, errors, and/or omissions be overlooked during the design review process, or during construction of the development, then any additional work identified during construction shall be implemented by the Developer at the Developer's expense."

## PRIOR TO ACCEPTANCE OF THE PUBLIC IMPROVEMENTS

30. All existing well(s), septic field(s), and gas/electrical service lines shall be destroyed in accordance with the requirements of the Sutter County Environmental Health and Yuba City Building Departments, respectively. Connections shall be made to public sewer and water. The Developer shall pay all applicable fees.

31. Street lights shall be provided on all interior streets and along the west side of Railroad Avenue. The street lights shall be approximately 250 feet apart or as approved by the Public Works Director.

32. Prior to backfilling, the Developer shall vacuum test all manholes to ensure no leakage will occur.

33. Prior to final paving, and/or as directed by the Public Works Director, the Developer shall hydroflush, and televise, all storm drain mains and all sewer mains. In addition, prior to the City's acceptance of the subdivision improvements, and at the Public Works Department's discretion, the storm sewer and sewer mains shall be re-hydroflushed.

34. The contractor shall maintain record drawings of the improvements and keep them on site at all times. When the project is complete, the contractor shall deliver a marked set of plans to the Engineer of Record. The Engineer of Record shall update the improvement plans with the record information. Once the changes have been added to the plans, the Engineer of Record shall submit both an electronic copy (Civil 3D version 2017 or newer) and a hard copy to the City. The City will not accept the completion of the improvements until the electronic copy and hard copy have been submitted.

35. The development shall be serviced with underground utilities (including electrical, and communications). No overhead utilities will be permitted.

36. The existing utility poles along the property frontage shall be placed underground, or addressed in accordance with the City's Overhead Utility Policy adopted March 17, 2020. The total lineal foot length of overhead lines is determined to be 200 lineal feet or as otherwise determined by the Public Works Director.

37. All public street lighting shall be dedicated to the City of Yuba City.

## PRIOR TO FINAL MAP RECORDATION

38. The development shall pay for operations and/or maintenance for police, fire, parks, drainage, and ongoing street maintenance costs. This condition may be satisfied through participation in a Mello-Roos, CFD, by payment of cash in an amount agreed to by the City, by another secure funding mechanism acceptable to the City, or by some combination of those mechanisms. The City shall be reimbursed actual costs associated with the formation of, or annexation to, the district. The property shall annex in to an existing CFD.

39. The property shall petition for formation of a Zone of Benefit of the Yuba City Lighting and Landscaping Maintenance District for the purpose of maintaining; street trees planted in the landscape planters, sidewalks, street lights, fencing and/or barricades, block walls, and any detention / water quality basin(s) or devices. The Engineering Division shall be reimbursed actual costs associated with the formation of the district.

40. The Post Construction Statement of Responsibility shall be recorded at the Sutter County Recorder's Office.

## PRIOR TO ISSUANCE OF A BUILDING PERMIT

41. The Developer's Superintendent/Representative shall submit three (3) sets of Pacific Gas and Electric approved utility plans showing joint trench locations and distribution lines prior to issuance of first building permit for each phase of construction.

## PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY

42. The curb, gutter, sidewalk, and lot drainage shall be inspected and approved by the City. Any curb, gutter and sidewalk which is not in accord with City standards or is damaged before or during construction, shall be replaced. All sidewalks along the City right-of-way shall be free of any non-control joint cracking. In addition, any concrete with cracks, chips, blemishes, and spalling greater than an inch in diameter shall be replaced from control joint to control joint.

43. All street lighting shall be constructed per the Improvement Plans and energized prior to the issuance of any certificate of occupancy or as approved by the Development Services Director.

44. Prior to issuance of any certificate of occupancy, all underground utilities, public improvements, and site improvements, including rough grading, shall be completed in accordance with City requirements.

City of Yuba City

# MITIGATION MEASURE AND REPORTING PLAN

## For West Railroad Village Subdivision

### Initial Study and Mitigated Negative Declaration EA 23-07
### For Tentative Subdivision Map 23-02

**Note:** The majority of the mitigations that follow are those mitigations from the Bogue-Stewart Master Plan EIR that were determined to be relevant to this subdivision. For reference purposes their original numbering was carried forward to the Initial Study and this MMRP.

| Impact | Mitigation Measure | Responsible Party | Monitoring Party | Timing |
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| 3.3 Air Quality | **Mitigation Measure 3.3-1(a): Fugitive Dust Control Plan**<br><br>During the construction of the BSMP, individual project applicants shall submit to FRAQMD a Fugitive Dust Control Plan with the following mitigation measures to be implemented:<br><br>a) All grading operations on a project shall be suspended when sustained winds exceed 20 miles per hour (mph) or when winds carry dust beyond the property line despite implementation of all feasible dust control measures;<br><br>b) Construction sites shall be watered as directed by the FRAQMD and as necessary to prevent fugitive dust violations;<br><br>c) An operational water truck shall be on-site at all times. Water shall be applied to control dust as needed to prevent visible emissions violations and off-site dust impacts;<br><br>d) On-site dirt piles or other stockpiled particulate matter shall be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce wind-blow dust emissions. The use of approved nontoxic soil stabilizers shall be | Developer | FRAQMD | Prior to issuance of grading permit |

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| | incorporated according to manufacturers' specifications to all inactive construction areas;<br><br>e) All transfer processes involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions;<br><br>f) Approved chemical soil stabilizers shall be applied according to the manufacturers' specifications to all inactive construction areas (previously graded areas that remain inactive for 96 hours), including unpaved roads and employee/ equipment parking areas;<br><br>g) To prevent track-out, wheel washers shall be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed before each trip. Alternatively, a gravel bed may be installed as appropriate at vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks and prevent/diminish track-out;<br><br>h) Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom permitted) if soil material has been carried onto adjacent paved, public thoroughfares from the project site;<br><br>i) Temporary traffic control shall be provided as needed during all phases of construction to improve traffic flow, as deemed appropriate by the appropriate department of public works and/or California Department of Transportation (Caltrans), and to reduce vehicle dust | | | |

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| | emissions. An effective measure is to enforce vehicle traffic speeds at or below 15 mph;<br><br>j) Traffic speeds on all unpaved surfaces shall be reduced to 15 mph or less, and unnecessary vehicle traffic shall be reduced by restricting access. Appropriate training to truck and equipment drivers, on-site enforcement, and signage shall be provided;<br><br>k) Ground cover shall be reestablished on the construction site as soon as possible and before final occupancy through seeding and watering; and<br><br>l) Open burning shall be prohibited at the project site. No open burning of vegetative waste (natural plant growth wastes) or other legal or illegal burn materials (e.g., trash, demolition debris) may be conducted at the project site. Vegetative wastes shall be chipped or delivered to waste-to-energy facilities (permitted biomass facilities), mulched, composted, or used for firewood. It is unlawful to haul waste materials off-site for disposal by open burning.<br><br>**Mitigation Measure 3.3-1(b): Control Exhaust Emissions**<br><br>Construction equipment exhaust emissions shall not exceed FRAQMD Regulation III, Rule 3.0, Visible Emissions Limitations (40 percent opacity or Ringelmann 2.0). Operators of vehicles and equipment found to exceed opacity limits shall take action to repair the equipment within 72 hours or remove the equipment from service. Failure to comply may result in a notice of violation from FRAQMD. | | | |

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| | **Mitigation Measure 3.3-1(c): Limit Equipment Idling**<br><br>Construction contracts within the BSMP shall limit idling time to 5 minutes in accordance with ARB airborne air toxic control measure 13 (CCR Chapter 10 Section 2485) unless more time is required per engine manufacturers' specifications or for safety reason.<br><br>**Mitigation Measure 3.3-1(d): Equipment Registration**<br><br>Portable engines and portable engine-driven equipment units used by construction contractors within the BSMP site, with the exception of on-road and off-road motor vehicles, may require ARB Portable Equipment Registration with the state or a local district permit. The owner/operator of the equipment shall be responsible for arranging appropriate consultations with ARB or the FRAQMD to determine registration and permitting requirements before the equipment is operated at the site.<br><br>**Mitigation Measure 3.3-1(e): Equipment Emissions Plan**<br><br>During the construction of the BSMP, individual project applicants shall assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that will be used an aggregate of 40 or more hours for a construction project. Applicants shall provide a plan for approval by FRAQMD demonstrating that the heavy-duty (equal to or greater than 50 horsepower) off-road equipment to be used for construction, including owned, leased, and subcontractor vehicles, will achieve a project-wide fleet-average 20 percent NOx reduction and 45 percent particulate reduction compared to | | | |

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| | the most recent ARB fleet average at the time of construction.<br><br>These equipment emission reductions can be demonstrated using the most recent version of the Construction Mitigation Calculator developed by the SMAQMD. Acceptable options for reducing emissions may include use of late-model engines, low emission diesel products, alternative fuels, engine retrofit technology (Carl Moyer Guidelines), after-treatment products, voluntary off-site mitigation projects, the provision of funds for air district off-site mitigation projects, and/or other options as they become available. In addition, implementation of these measures would also result in a 5 percent reduction in ROG emissions from heavy-duty diesel equipment. FRAQMD shall be contacted to discuss alternative measures.<br><br>**Mitigation Measure 3.3-2: Implement Operational Mitigation Measures**<br><br>The project applicant(s) for tentative subdivision maps and development projects proposed under the BSMP shall implement the mitigation measures, as applicable to the proposed subdivision map or development project. At the time entitlements are sought, the City will evaluate measures below, determine which measures are applicable, and include those measures as conditions of approval or some other enforceable mechanism. All feasible measures listed below shall be incorporated into subdivision maps and development projects within the BSMP.<br><br>a) Subdivision maps and development projects located in areas designated Community Commercial, Neighborhood Commercial, | | | |

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| | Office Park, and Business Park shall be developed in coordination with local transit providers to ensure proper placement and design of transit stops and accommodate public transit for both employees and patrons.<br><br>b) Subdivision maps and improvement plans shall be designed to provide convenient and safe bicycle, pedestrian, and transit access between neighborhoods and areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park, as well as parks, trails, and other destinations.<br><br>c) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall distribute proposed parking and not concentrate parking exclusively between the front building façade and the primary abutting street where feasible.<br><br>d) Cul-de-sacs are allowed only where they would not create a barrier for pedestrian and bicycle access or circulation between homes and destinations.<br><br>e) Employment generating projects that anticipate more than 50 full-time equivalent employees shall participate in the Yuba-Sutter Transportation Management Association.<br><br>f) Subdivision maps and improvement plans shall be designed to accommodate safe and frequent pedestrian crosswalks, with more frequent crossings in areas expected to have higher pedestrian traffic, such as | | | |

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| | schools, parks, trail connections, higher-density residential areas, and areas with retail, services, office uses, and other non-residential uses.<br><br>g) Subdivision maps and improvement plans shall be designed to discourage concentration of traffic at a few intersections. Multiple points of access shall be provided whenever feasible. Roads shall be arranged in an interconnected block pattern. The maximum average block length in subdivisions is 600 feet unless unusual existing physical conditions warrant an exception to this standard, but shorter block lengths should be used around areas designated Community Commercial and Neighborhood Commercial.<br><br>h) Subdivision maps and improvement plans shall be designed to connect with adjacent roadways and stubbed roads and shall provide frequent stubbed roadways in coordination with future planned development areas.<br><br>i) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to minimize the amount of on-site land required to meet parking, internal circulation, and delivery/loading needs.<br><br>j) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to break up any proposed surface parking with landscaping and provide pedestrian routes from | | | |

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| | parking areas to building entrances.<br><br>k) The City will reduce the amount of off-street parking required or eliminate off-street parking requirements for projects that propose housing units restricted to lower-, very low-, or extremely low-income households.<br><br>l) Residential subdivision maps shall orient the majority of buildings so that the longer axis of the building, also known as the ridge line, is oriented east-to-west, in order to maximize the potential for passive solar heating in the winter and to minimize heat gain from the afternoon summer sun.<br><br>m) Subdivision maps and development projects proposing off-street surface parking lots shall incorporate shade trees or shade structures to provide a minimum of 50 percent shading (at maturity, where trees are used).<br><br>n) Subdivision maps and development projects shall use climate-appropriate landscaping in parks and open space, landscaping within new rights of way, yards, and other appropriate spaces.<br><br>o) Provide secure, covered bicycle parking for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may consist of a separate secure, covered bicycle parking area at each employment location or larger shared bicycle parking area/s located and | | | |

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| | designed to serve multiple locations.<br><br>p) Shower and locker facilities shall be provided for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may be achieved by incorporating a shower and locker facility into the design of each proposed use, or facilities located and designed to serve multiple locations.<br><br>q) Residential development that proposes fireplaces shall use the lowest emitting commercially available fireplace.<br><br>r) Provide electric vehicle charging facilities and priority parking at non-residential uses for electric and carpool/vanpool vehicles. | | | |
| 3.4 Biological Resources | **Mitigation Measure 3.4-1: Protection of Jurisdictional Waters and Wetlands**<br><br>a) Prior to grading activities, the City shall require the project applicant [for an individual project pursuant to the BSMP] to prepare a formal aquatic resources delineation in accordance with the USACE Minimum Standards for Acceptance of Aquatic Resources Delineation Reports[1] for all areas of the individual development project site to determine if any wetlands or other waters of the U.S. potentially subject to Sections 401 and 404 of the CWA exist on that site. If no potential wetlands or other waters of the U.S. are identified, a report shall be submitted to the City for its records and no additional | Developer | Development Services Department | Prior to issuance of grading permit |

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| | measures are required. If the formal aquatic resources delineation identifies potentially jurisdictional features on an individual project site, then measure 3.4-1(b) shall be implemented (below). If potential canals, streams, or lakes are identified that may be impacted by project activities, mitigation 3.4-1(c) shall also be implemented.<br><br>b) If the formal aquatic resources delineation identifies potentially jurisdictional features on an individual development project site, then the report shall be submitted to the USACE for verification and issuance of a jurisdictional determination. If any wetlands or waters are determined to be under the jurisdiction of the USACE or the RWQCB and may be impacted by project development, then the individual project applicant shall obtain Section 404/401 permits based on the jurisdictional determination with the appropriate regulatory agency for the potentially impacted features. During the permitting process, mitigation measures shall be developed as necessary to reduce impacts on wetlands through avoidance, minimization and/or compensatory mitigation. Permanent losses to potentially jurisdictional wetlands and other waters of the U.S. shall be compensated at a minimum 1:1 ratio (or otherwise agreed upon ratio with the USACE and RWQCB) to achieve a no net loss of wetlands.<br><br>c) If the individual development project would result in impacts to the bed and banks of Gilsizer Slough, or other jurisdictional water courses with a defined bed and bank | | | |

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| | as identified in an aquatic resources delineation or jurisdictional determination, the City shall notify, or require the project applicant to notify, the CDFW. The CDFW will determine whether a Section 1600 Lake and Streambed Alteration Agreement (LSAA) is required. If required, the individual project applicant shall apply for and adhere to the conditions of the LSAA. This action shall be completed prior to issuance of a grading permit or initiation of other project activities that may impact the canal or other jurisdictional water courses.<br><br>**Mitigation Measure 3.4-2: Protection of Valley Elderberry Longhorn Beetle**<br><br>a) The individual project applicant shall engage a qualified biologist to conduct a survey of the construction footprint and 165-foot buffer around the proposed construction footprint to determine whether any elderberry shrubs with stems at least one-inch dgl are present. If no such elderberry shrubs are present within 165 feet of construction activities, a report shall be submitted to the City for its records and no additional measures are required.<br><br>b) If elderberry shrubs with stems at least one-inch dgl are present within 165 feet of construction activities, the following avoidance measures shall be implemented, at minimum, in accordance with the VELB Impact Assessment.<br><br>1. Fencing shall be installed as close to the construction limits as feasible for shrubs occurring within 165 feet. | | | |

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| | 2. In areas where work would occur within near proximity to elderberry shrub, exclusion fencing shall be established a minimum of a 20-foot radius around the shrubs.<br>3. An individual project applicant shall engage a qualified biologist to provide worker awareness training for all contractors, work crews, and any onsite personnel, on the status of the VELB, its host plant and habitat, the need to avoid damaging the shrubs, and the possible penalties for non-compliance.<br>4. Mechanical weed removal within the drip-line of the shrub shall be limited to the season when adults are not active (August - February) and shall avoid damaging the elderberry.<br>c) If elderberry shrubs cannot be avoided or if indirect effects will result in the death of stems or entire shrubs, the elderberry shrubs with stems greater than one-inch dgl shall be transplanted.<br>1. The individual project applicant shall engage a qualified biologist to monitor the transplanting activities.<br>2. Elderberry shrubs shall be transplanted when the shrubs are dormant (November through February 14) and after they have lost their leaves.<br>d) For shrubs that cannot be avoided, the individual project applicant shall purchase compensatory mitigation for impacts to elderberry shrubs. The appropriate type and amount of compensatory mitigation shall be determined through coordination with the | | | |

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| | USFWS. Appropriate compensatory mitigation may include purchasing credits at a USFWS-approved conservation bank at a minimum 1:1 ratio, providing onsite mitigation, and/or establishing and/or protecting habitat for the valley elderberry longhorn beetle.<br><br>**Mitigation Measure 3.4-3: Protection of Migratory Birds and Raptors**<br><br>a) Building demolition and vegetation clearing operations, including initial grading and tree removal, shall occur outside of the nesting season (September 1 through January 31) to the extent feasible. If vegetation removal or building demolition begins during the nesting season (February 1 to August 31), the individual project applicant shall engage a qualified biologist to conduct a pre-construction survey for active nests within a 500-foot buffer around the individual project footprint. The pre-construction survey shall be conducted within 14 days prior to commencement of ground disturbing activities. If the pre-construction survey shows that there is no evidence of active nests, then a report shall be submitted to the City for its records and no additional measures are required. If construction does not commence within 14 days of a pre-construction survey, or halts for more than 14 days, an additional pre-construction survey is required for each period of delay.<br><br>b) If any active nests are located within the construction footprint – including, but not limited to individual project site, staging areas, spoils sites, | | | |

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| | construction access – an appropriate buffer zone shall be established around the nests, as determined by the qualified biologist based on applicable regulatory requirements in force at the time of construction activity. The biologist shall mark the buffer zone with construction tape or pin flags and maintain the buffer zone until the end of breeding season or until the young have successfully fledged or the nest is determined too no longer be active. Buffer zones are typically 50-100 feet for migratory bird nests and 250-500 feet for raptor nests (excluding Swainson's hawk). If active nests are found within the vicinity of the construction areas, the qualified biologist shall monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. If establishing the typical buffer zone is impractical, the qualified biologist shall adjust the buffer depending on the species and daily monitoring would be required to ensure that the nest is not disturbed, and no forced fledging occurs. This daily monitoring shall occur until the qualified biologist determines that the nest is no longer occupied.<br><br>**Additional Measures for Burrowing Owl**<br><br>c) Prior to any individual project construction, the project applicant shall engage a qualified biologist to conduct a habitat assessment to determine if potential nesting habitat is present with an individual project area. If potential nesting habitat is present, nesting and wintering season surveys for burrowing owl shall be conducted to determine if potential habitat within 500 feet of ground disturbance is | | | |

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| | used by this species. As described in Table 3.4-2, suitable burrowing owl habitat includes the annual grassland and agricultural land. The timing and methodology for the surveys shall be conducted in accordance with the current CDFW Staff Report on Burrowing Owl Mitigation (Appendix D-3).2 A minimum of three survey visits should be conducted at least three weeks apart during the peak breeding season between April 15 and July 15. One of these surveys could be conducted at the same time as the nesting bird survey (Mitigation Measure 3.4-3a) should work be anticipated to commence within 14 days and between April 15 and July 15. A winter survey shall be conducted between December 1 and January 31, during the period when wintering owls are most likely to be present.<br><br>d) If an active burrowing owl nest site/active burrow is discovered in the vicinity of an individual project construction footprint – including, but not limited to individual project site, staging areas, spoils sites, construction access – the project applicant shall notify the City and CDFW. A qualified biologist shall monitor the owls and establish a fenced exclusion zone around each occupied burrow. No construction activities shall be allowed within the exclusion buffer zone until such time that the burrows are determined by a qualified biologist to be unoccupied. The buffer zones shall be a minimum of 150 feet from an occupied burrow during the non-breeding season (September | | | |

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| | 1 through January 31) and a minimum of 250 feet from an occupied burrow during the breeding season (February 1 through August 31).<br><br>e) If avoidance is not feasible, the CDFW shall be consulted to develop and the implement avoidance or passive relocation methods. All activities that will result in a disturbance to burrows shall be approved by the CDFW prior to implementation.<br><br>**Additional Measures for Swainson's Hawk**<br><br>f) If construction activities are anticipated to commence during the Swainson's hawk nesting season (March 1 to September 15), the individual project applicant shall engage a qualified biologist to conduct a minimum of two pre-construction surveys during the recommended survey periods in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Appendix D-4).3 All potential nest trees within 0.25 mile of the proposed project footprint shall be visually examined for potential Swainson's hawk nests, as accessible. If no active Swainson's hawk nests are identified on or within 0.25 mile of the proposed project, a report documenting the survey methodology and findings should be submitted to the City for its files and no additional mitigation measures are required.<br><br>g) If active Swainson's hawk nests are found within 0.25 mile of construction activities, a survey report shall be submitted to the CDFW and the CNDDB, and an avoidance and minimization | | | |

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| | plan shall be provided to and approved by the CDFW prior to the start of construction of the given development proposal. The avoidance plan shall identify measures to avoid or minimize impacts to the active Swainson's hawk nest. These measures may include, but are not limited to:<br>1. Conducting a Worker Awareness Training Program prior to the start of construction;<br>2. Establishing a buffer zone and work schedule to avoid impacting the nest during critical periods. If practicably feasible, no work will occur within 200 yards of the nest while it is in active use. If work will occur within 200 yards of the nest, then construction shall be monitored by a qualified biologist to ensure that no work occurs within 50 yards of the nest during incubation or within ten days after hatching;<br>3. Having a qualified biological monitor conduct regular monitoring of the nest during construction activities; and<br>4. Allowing the qualified biologist to halt construction activities until CDFW determines that the construction activities are disturbing the nest.<br>**Mitigation Measure 3.4-4: Protection of Bat Species**<br>a) The individual project applicant shall engage a qualified biologist to conduct a pre-construction survey for special-status bat species within 14 days prior to the start of tree or building removal within the BSMP | | | |

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| | project site. If no special-status bats are observed roosting, a report shall be submitted to the City for its records and no additional measures are required. If construction does not commence or if any trees or buildings anticipated for removal are not removed within 14 days of the pre-construction survey or halts for more than 14 days, a new survey and reporting shall be conducted.<br><br>b) If bats including pallid bats are found, the qualified biologist shall consult with the CDFW to determine and implement avoidance measures. Avoidance measures may include, but are not limited to, establishing a buffer around the roost tree, or building until it is no longer occupied or installing exclusion material around the tree/opening of the building after dusk, once the qualified biologist has determined that the bat has left the roost to forage. The tree or building shall not be removed until a biologist has determined that the tree or building is no longer occupied by the bats.<br><br>**Mitigation Measure 3.4-6: Rare Plant Protection**<br><br>a) The individual project applicant shall retain a qualified biologist to conduct focused botanical protocol-level surveys in the nonnative annual grassland for dwarf downingia (blooms March through May) and Ferris' mile-vetch (blooms April through May) and in the non-native grassland and oak woodland for Baker's navarretia (blooms April through July) and Hartweg's golden sunburst (blooms March through April). Surveys shall be conducted during blooming periods for | | | |

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| | all special-status species. (It is noted that the blooming periods for these plant species overlap in the month of April.) If no special-status plants are observed within the survey area, then a report shall be submitted to the City and no additional mitigation is required so long as construction commences within two years of the survey.<br><br>b) If Baker's navarretia, dwarf downingia, or Ferris' milk-vetch are observed within the project site, the plants should be avoided with a minimum 10-foot avoidance buffer with exclusion fencing, to the extent feasible. If these special-status plants cannot be avoided, a mitigation plan shall be prepared by a qualified botanist. At minimum, the mitigation plan shall include locations where the plants will be transplanted, success criteria, and monitoring activities for the transplanted populations. The mitigation plan shall be finalized prior to transplantation and commencement of construction activities.<br><br>c) If the federal and state endangered Hartweg's golden sunburst is observed, the plants shall be avoided to the extent feasible.<br><br>1. If the plants cannot be avoided, the individual project applicant shall obtain a CESA Section 2081(b) Incidental Take Permit. Measures to minimize the take and to mitigate the impacts caused by the take shall be set forth in one or more conditions of the permit. Potential conservation measures include, but are not limited to, purchasing credits from a mitigation | | | |

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| | bank, establishing a preserve, and/or preparing a mitigation plan.<br>2. If the plants cannot be avoided and if the project requires USFWS Section 7 consultation (i.e., would impact a jurisdictional wetland or water of the U.S. requiring a Section 404 CWA permit), consultation with the USFWS through the Section 7 process shall occur to determine any additional avoidance, conservation, and mitigation measures that may be needed for the species, if any. The individual project applicant is not required to consult for impacts to federally listed plants without a federal nexus. | | | |
| 3.5 Cultural Resources | Mitigation Measure 3.5-2(a): Protection of Archaeological Resources (Only if the results of implementation of Mitigation 3.5-2(b) necessitates its use).<br>Archaeological Monitoring Plan. Prior to issuance of grading permits or ground-disturbing construction activity in the Newkom Ranch and Kells East Ranch properties, the project applicant shall prepare and submit an Archaeological Monitoring Plan to the City of Yuba City for review and approval. Monitoring shall be required for all surface alteration and subsurface excavation work, including trenching, boring, grading, use of staging areas and access roads, and driving vehicles and equipment. A Secretary of the Interior-qualified professional archaeologist (project archaeologist) shall prepare the plan. The plan shall address (but not be limited to) the following issues:<br>• Training program for all construction and field | Developer | Development Services Department | Prior to issuance of grading permit |

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| | workers involved in site disturbance;<br>• Person(s) responsible for conducting monitoring activities, including both archaeological and Native American monitors;<br>• How the monitoring shall be conducted and the required format and content of monitoring reports, including the need to conduct trenching, shovel-test units, or auger samples to identify archaeological deposits in advance of construction, assessment, designation, and mapping of the sensitive cultural resource areas on final project maps, assessment, and survey of any previously un-surveyed areas;<br>• Person(s) responsible for overseeing and directing the monitors;<br>• Schedule for submittal of monitoring reports and person(s) responsible for review and approval of monitoring reports;<br>• Procedures and construction methods to avoid sensitive cultural resource areas (i.e., planning construction to avoid the resource, incorporating the resource within open space, capping, and covering the resource, or deeding the site into a permanent conservation easement);<br>• Clear delineation and fencing of sensitive cultural resource areas;<br>• Physical monitoring boundaries;<br>• Protocol for notifications in case of encountering of cultural resources, as well as methods of dealing with the encountered resources (e.g., collection, identification, curation); | | | |

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| | • Methods to ensure security of cultural resources;<br>• Protocol for notifying local authorities (i.e. Sheriff, Police) should site looting and other illegal activities occur during construction.<br><br>Archaeological and Native American Monitoring. If an intact archaeological resource is encountered, all soil disturbing activities in the vicinity of the resource shall cease until it is evaluated. The project archaeologist shall immediately notify the City of Yuba City of an encountered archaeological resource. The project archaeologist and Native American monitor shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological resource, present the findings of this assessment to the City.<br><br>During the course of the monitoring, the project archaeologist and Native American monitor may adjust the frequency—from continuous to intermittent—of the monitoring based on the conditions and professional judgment regarding the potential to impact resources.<br><br>If the City, in consultation with the project archaeologist and Native American monitor, determines that a significant archaeological resource is present and that the resource could be adversely impacted by the project, the City shall:<br><br>• Determine whether preservation in place is feasible. Consistent with CEQA Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. | | | |

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| | • If avoidance is not feasible, prepare and implement a detailed Archaeological Research Design and Treatment Plan. Treatment of archaeological resources will follow the applicable requirements of Public Resources Code Section 21083.2. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals.<br>• If potential human remains are encountered, all work will halt in the vicinity of the find and the City will contact the county coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5. If the coroner determines the remains are Native American, the coroner shall contact the Native American Heritage Commission. As provided in Public Resources Code Section 5097.98, the Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations for means of treating, with appropriate dignity, the human remains, and any associated grave | | | |

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| | goods as provided in Public Resources Code Section 5097.98.<br><br>**Mitigation Measure 3.5-2(b): Protection of Historic Archaeological Resources**<br><br>When BSMP-level development plans outside the Newkom Ranch and Kells East Ranch properties are submitted to the City of Yuba City for approval, the project applicant shall be required to complete a cultural resources investigation for review and approval by the City that includes, at a minimum:<br><br>• An updated records search at the Northeast Information Center;<br><br>• Updated Native American consultation in coordination with the Native American Heritage Commission<br><br>• An intensive archaeological survey of the development area;<br><br>• A geoarchaeological assessment for the potential for buried archaeological resources;<br><br>• A report that documents the results of the investigation; and<br><br>Recommendations for mitigation to resolve adverse impacts to significant archaeological resources or human remains. The survey shall be carried out by a qualified archaeologist meeting the Secretary of the Interior's Standards for Archaeology and can be documented in the same document as required in Mitigation Measure 3.5-2(a). | | | |
| 3.8 Greenhouse Gases | **Mitigation Measure 3.7-1(a): Residential Building Insulation**<br><br>Prior to building construction, individual project applicants shall submit to the City building plans demonstrating how all proposed residential buildings include greatly enhanced building | Developer | Development Services Department | Prior to issuance of building permit |

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| | insulation materials such as spray foam wall insulated walls R-15 or greater, roof/attic R-38 or higher. The individual project applicants shall also demonstrate how all proposed residential buildings include modestly enhanced window insulation such as 0.4 U-Factor or 0.32 SHGC. | | | |
| 3.9 Hazards and Hazardous Materials | **Mitigation Measure 3.8-2: Conduct Phase I Environmental Site Assessment**<br>a) Prior to final project design of any individual project pursuant to the BSMP that includes any earth-disturbing activities, the applicant shall submit to the City a Phase I Environmental Site Assessment (Phase I ESA). The Phase I ESA shall be prepared in general accordance with ASTM Standard E1527-13, Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process (or most current edition that is in force at the time of final project design), which is the current industry standard. The Phase I ESA shall include a records review of appropriate federal, State, and local databases within ASTM-listed search distances regarding hazardous materials use, storage, or disposal at the given site, a review of historical topographic maps and aerial photographs, a site reconnaissance, interviews with persons knowledgeable about the sites historical uses, and review of other relevant existing information that could identify the potential existence of Recognized Environmental Conditions, including hazardous materials, or contaminated soil or groundwater. If no Recognized Environmental | Developer | Public Works Department | Prior to issuance of grading permit |

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| | Conditions are identified, then no further action would be required.<br><br>b) If Recognized Environmental Conditions are identified and the Phase I ESA recommends further action, the applicant shall conduct the appropriate follow-up actions, which may include further records review, sampling of potentially hazardous materials, and possibly site cleanup. In the event that site cleanup is required, the project shall not proceed until the site has been cleaned up to the satisfaction of the appropriate regulatory agency (e.g., DTSC, RWQCB, or SC EHD) such that the regulatory agency issues a No Further Action letter or equivalent. | | | |
| 3.13 Noise | **Mitigation Measure 3.11-1: Construction Noise Measures**<br><br>Individual project applicants of new development (excluding renovation of existing buildings) shall require construction contractors to implement the following measures during all phases of project construction:<br><br>a) Whenever stationary noise sources – such as generators and compressors – are used within line of sight to occupied residences (on- or off-site), temporary barriers shall be constructed around the source to shield the ground floor of the noise-sensitive uses. These barriers shall be of ¾-inch Medium Density Overlay (MDO) plywood sheeting, or other material of equivalent utility and appearance to achieve a Sound Transmission Class of STC-30, or greater, based on certified sound transmission loss data taken according to ASTM Test Method E90 or as approved by the City of Yuba City Building Official. | Developer | Development Services Department | Prior to issuance of grading permit |

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| | b) Construction equipment staging areas shall be located as far as feasible from residential areas while still serving the needs of construction contractors.<br><br>c) Equipment and trucks used for construction will use the industry standard noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating a shields or shrouds, wherever feasible).<br><br>d) Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically- or electrically powered where feasible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dB. External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dB. Quieter procedures, such as use of drills rather than impact tools, shall be used whenever feasible. | | | |
| 3.17 Transportation and Traffic | **Mitigation Measure 3.14-1(a): Yuba City Intersections:** The project applicant(s) shall construct the following improvements. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project | Developer | Public Works Department | Prior to recording final map |

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| | applicant shall be determined by the City and shall be included in each applicant's project approval documentation.<br>i. Install a traffic signal and widen the eastbound and southbound approaches to provide dedicated left-turn pockets at the Bogue Road/South Walton Avenue intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).<br>ii. Install a traffic signal at the Railroad Avenue/Lincoln Road intersection (in conjunction with existing lane configurations).<br>iii. Install a traffic signal at the Bogue Road/Phillips Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).<br>iv. Install a traffic signal at the Bogue Road/Railroad Avenue intersection and widen/restripe the northbound and southbound approaches to provide dedicated left-turn pockets (in conjunction with lane configurations planned under existing plus BSMP conditions).<br>v. Install a traffic signal at the Gilsizer Ranch Way/Bogue Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).<br>**Mitigation Measure 3.14-3: Caltrans Intersections LOS:** The project applicant(s) shall construct the improvements described below. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff and Caltrans regarding construction | | | |

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| | of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.<br><br>i. Widen the SR 99/Bogue Road intersection to provide a second southbound left-turn lane that provides 500 feet of storage in each lane. Widen Bogue Road to construct a second eastbound and westbound left-turn lane. Restripe westbound Bogue Road approaching SR 99 to consist of two left-turn lanes, one through lane, and one right-turn lane (with the right-turn consisting of an overlap arrow); and<br><br>ii. Install a traffic signal at the SR 99/Stewart Road intersection.<br><br>**Mitigation Measure 3.14-4(a):** Caltrans Intersections Queuing: Implement Mitigation Measure 3.14-3(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane. To address queuing impacts in the southbound left-turn lane prior to the overall intersection LOS reaching an unacceptable level, the second left-turn lane is necessary. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff and Caltrans regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation. | | | |

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| | **Mitigation Measure 3.14-7(a): Cumulative Yuba City Intersections**<br><br>i. Implement Mitigation Measure 3.14-1(a)(i): Install traffic signal and add turn lanes at the Bogue Road/South Walton Avenue intersection.<br><br>ii. Implement Mitigation Measure 3.14-1(a)(iii): Install traffic signal at the Bogue Road/Phillips Road intersection.<br><br>iii. Implement Mitigation Measure 3.14-1(a)(iv): Install a traffic signal and add turn lanes at the Bogue Road/Railroad Avenue intersection.<br><br>iv. Implement Mitigation Measure 3.14-1(a)(v): Install traffic signal at the Gilsizer Ranch Way/Bogue Road intersection.<br><br>v. Contribute fair share cost for restriping the eastbound approach at the Garden Highway/Bogue Road intersection from a through lane to a shared through/right lane and modifying the signal phasing to east-west split-phase.<br><br>**Mitigation Measure 3.14-9(a): Cumulative Caltrans Intersections LOS**<br><br>i. Implement Mitigation Measure 3.14-3(a)(i): Add turn lanes at the SR 99/Bogue Road intersection.<br><br>ii. Implement Mitigation Measure 3.14-3(a)(ii): Install traffic signal at the SR 99/ Stewart Road intersection.<br><br>iii. Contribute fair share cost for adding a second northbound left-turn lane and adding dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection.<br><br>iv. Contribute fair share cost for installing a traffic signal at the | | | |

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| | SR 99/Hunn Road intersection.<br>v. Contribute fair share cost for installing a traffic signal at the SR 99/Smith Road intersection.<br>**Mitigation Measure 3.14-10(a): Cumulative Caltrans Intersections Queuing (BSMP)**<br>i. Implement Mitigation Measure 3.14-3(a)(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane.<br>ii. Implement Mitigation Measure 3.14-9(a)(iii), which consists of paying fair share cost of adding a second northbound left-turn lane and dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection. | | | |
| 3.18 Tribal Cultural Resources | **Mitigation Measure 3.5-2(b): Protection of Historic Archaeological Resources:**<br>When BSMP-level development plans outside the Newkom Ranch and Kells East Ranch properties are submitted to the City of Yuba City for approval, the project applicant shall be required to complete a cultural resources investigation for review and approval by the City that includes, at a minimum:<br>• An updated records search at the Northeast Information Center;<br>• Updated Native American consultation in coordination with the Native American Heritage Commission.<br>• An intensive archaeological survey of the development area;<br>• A geoarchaeological assessment for the potential | Developer | Development Services Dept. | Prior to issuance of grading permit |

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| | for buried archaeological resources;<br>• A report that documents the results of the investigation; and<br>• Recommendations for mitigation to resolve adverse impacts to significant archaeological resources or human remains. | | | |
| 3.19 Utilities and Service Systems | **Mitigation Measure 3.15-1: Water Supply Capacity**<br>Individual project applicants shall pay the fair share of costs for each development's proportion of the water supply deficits estimated through 2040. The payments shall be directed to a City fund for the construction and operation of new groundwater well(s) as determined by the City. The City shall reflect the requirement for the fair share payment for each development in any future development agreement in the BSMP site, and payment shall be made to the City prior to final tentative map approval and building permit.<br>b) The City shall construct new groundwater well(s) to be operable and sufficient to serve the water supply demands of each development approved prior to year 2030. The groundwater well(s) shall be constructed to produce sufficient water to make up the shortfalls in any given single-dry year or the first year of a multi-dry year scenario as determined by the City.<br>c) The City shall not approve a final tentative map or building permit for any development pursuant to the proposed BSMP or City beyond the supplies available from 2030 through 2040 without a reliable source of water supply to meet the shortfalls in the single-dry year or the | Developer | Public Works Department | Prior to recording final subdivision map |

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| | first year of a multi-dry year scenario, as detailed above. | | | |

# ATTACHMENT 3

**PLANNING COMMISSION RESOLUTION NO. PC 24-02**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF YUBA CITY (PLANNING COMMISSION) RECOMMENDING THE CITY COUNCIL OF THE CITY OF YUBA CITY ADOPT A RESOLUTION ADOPTING ENVIRONMENTAL ASSESSEMENT 23-07 THAT RESULTED IN A DETERMINATION OF A MITIGATED NEGATIVE DECLARATION FOR TENTATIVE SUBDIVISION MAP (TSM) 23-02 WEST RAILROAD VILLAGE, AND APPROVING AN UNCODIFIED ORDINANCE FOR A DEVELOPMENT AGREEMENT FOR TSM 23-02, ON APPROXIMAELY 4.8 ACRES, LOCATED ON THE WEST SIDE OF RAILROAD AVENUE APPROXIMATELY 200 FEET SOUTH OF BOGUE ROAD; ASSESSORS PARCEL NUMBER 055-240-002.**

**WHEREAS,** the City received an application from Junior Thiara for TSM 23-02 to subdivide approximately 4.8 acres into 21 duplex lots and six single-family residential lots which would be at a density of approximately 10 residences per acre, and an associated Development Agreement (collectively "Project"). All of the new residential lots will be provided full City services; and

**WHEREAS,** this property was recently annexed into Yuba City's city limits and the property owner wished to develop their property to urban levels; and

**WHEREAS,** pursuant to the authority and criteria contained in the California Environmental Quality Act of 1970 ("CEQA"), with the City, as the Lead Agency, the Planning Commission reviewed related Environmental Assessment 23-07 which was prepared for TSM 23-02 and this Development Agreement, resulting in a determination of a Mitigated Negative Declaration (MND) prepared for the Project, which concluded that this Project, with new mitigations as well as mitigations from the previously approved EIR for the Bogue-Stewart Master Plan (BSMP), will not generate any new significant environmental impacts not previously considered and analyzed in the BSMP EIR; and

**WHEREAS,** a review of the General Plan, BSMP, and Zoning Regulations determined that the proposed subdivision and development agreement are consistent with all General Plan Elements and meets all policies and programs established by the BSMP and the Zoning Regulations; and

**WHEREAS,** the City on January 4, 2024, published a legal notice and a public hearing notice was mailed to each property owner within at least 300 feet of the Project site in compliance with State law concerning the Planning Commission's consideration on January 24, 2024; and

**WHEREAS**, on January 24, 2024, the Planning Commission concurrently conducted a duly noticed public hearing on TSM 23-02 and the Development Agreement, at which time it received input from City Staff, the applicant; the public comment portion was opened, and public testimony and evidence, both written and oral, was considered by the Planning Commission, after which public testimony was closed; and

**WHEREAS**, after deliberation and consideration of all relevant items, the Planning Commission approved TSM 23-02 contingent upon the City Council adopting a resolution approving EA 23-07 and an ordinance adopting the Development Agreement.

**NOW, THEREFORE, BE IT RESOLVED** the Planning Commission resolves and orders as follows:

1. Recitals. The Planning Commission hereby specifically finds that all of the facts set forth in the recitals above are true and correct and incorporated herein.

2. CEQA Finding. The Planning Commission recommends that the City Council find and determine, that there is no substantial evidence in the record that TSM 23-02 and the associated Development Agreement may have a significant effect on the environment beyond what was considered and analyzed in the Bogue-Stewart Master Plan (BSMP) EIR as identified by the MND prepared in Environmental Assessment 23-07. Additionally, the Planning Commission recommends that the City Council find and determine that an environmental assessment/initial study was prepared for this Project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines and reflects the Planning Commission's independent judgment and analysis. The process included the distribution of requests for comments from other responsible or affected agencies and interested organizations. Preparation of Environmental Assessment 23-07 necessitated a thorough review of the proposed Project and relevant environmental issues and considered the previously prepared BSMP EIR. While the proposed Project could have a potentially significant effect on the environment, based on its independent judgment and analysis the Planning Commission recommends the City Council find that feasible mitigation measures or alternatives have been incorporated into the Project in order to avoid the effects to a point where clearly no significant effect on the environment will occur beyond those determined in the EIR prepared for the BSMP. The Project-specific mitigation measures included in the Project to avoid potentially significant effects are set forth in the attached Initial Study/Mitigated Negative Declaration and accompanying Mitigation Monitoring and Reporting Program. With the Project specific mitigations imposed, there is no substantial evidence in the record that this Project may have significant direct, indirect, or cumulative effects on the environment beyond those which were identified and analyzed in the BSMP EIR.

3. Adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Based on the foregoing, the Planning Commission recommends the City Council adopt the Mitigated Negative Declaration prepared for the Project, including the associated Mitigation Monitoring and Reporting Program, as the Project will not result in any significant, adverse environmental impacts with the mitigations proposed beyond those identified and analyzed in the BSMP EIR. The Yuba City Development Services Department is located at 1201 Civic Center Boulevard, Yuba City, CA 95993, and is recommended to be designated as the custodian of the documents and other materials that constitute the record of the proceedings upon which the decision is based. The Planning Commission further recommends the City Council authorize the Director, or designee, to execute and file with the Sutter County Clerk, as appropriate, a Notice of Determination for approval of the Project that complies with the CEQA Guidelines.

4. Development Agreement Findings. Pursuant to the Government Section Code 65864 through 65869.5 and in light of the record before it, including the staff report and all attachments, and all evidence and testimony heard at the public hearing for this item, and in light of all evidence and testimony provided in connection with the entitlements for the West Railroad Village Subdivision, the Planning Commission recommends the City Council make the following findings pertaining to the Development Agreement.

a. *The proposed Development Agreement is consistent with the goals and policies of the General Plan, its purposes, and applicable Specific Plan(s).*

Evidence: The proposed subdivision creating 21 duplex lots and six single-family residential lots is consistent with the land use pattern adopted as part of the BSMP. The Project's overall density of approximately 10 residences per acre is consistent with the General Plan Land Use Element and BSMP that provides for a density range of 6-14 dwellings per acre for the Medium-Density Residential (MDR) land use designation. Consistent with the General Plan and BSMP policies, this development will pay development impact fees to contribute to the City's Park system. The proposed Project is consistent with the intent of the BSMP, and has designed residential streets with sidewalks, planting strips and traffic calming elements to create a pedestrian-friendly environment.

b. *The Development Agreement is consistent with and furthers a number of goals and objectives identified in the City's General Plan.*

Evidence: This Project is consistent with the City's General Plan goals and policies including the established density ranges for MDR designated land. The Project is conditioned to meet all City development and improvement standards including water, wastewater, stormwater drainage systems, street cross-sections, streetscape landscaping, and park facilities or applicable in-lieu fees. The proposed Project will be subject to compliance with BSMP R-2 development standards.

Overall, the Project proposed by the Development Agreement represents a productive use of site that will be compatible with surrounding anticipated future neighboring uses and offers Yuba City residents new residential opportunities that will support retail, entertainment, and employment uses in the City.

c. *Water Supply Assessment.*

A water supply assessment required by California Government Code Section 66473.7 (a)(1) was prepared as part of the BSMP EIR and determined that between the use of water withdrawn from the Feather River and city operated wells, there will be a need for additional City water well(s) for which a mitigation measure is applied that requires all BSMP development to pay a fair-share towards the well's cost. With implementation of that mitigation measure there will be an adequate long term water supply.

5. Recommendation of Approval of the Development Agreement. Based on the information provided above, the Planning Commission recommends to the City Council of Yuba City adoption of the Development Agreement, as provided in Exhibit A.

6. Effective Date of Resolution. This Resolution shall become effective immediately.

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the Planning Commission at a regular meeting thereof held on January 24, 2024, by the following vote:

Ayes:

Noes:

Absent:

Recused:

By order of the Planning Commission of the City of Yuba City.

_____
Jackie Sillman, Planning Commission Chair

ATTEST:

_____
Benjamin Moody, Secretary to the Planning Commission

Attachments:
Exhibit A: West Railroad Village Draft Development Agreement

# EXHIBIT A

Recording Requested by:

Development Services Department
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA

**When Recorded Mail To**:

City Clerk
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

DOCUMENT WILL BE RETURNED TO NAME &. ADDRESS IDENTIFIED ABOVE

[Space Above for Recorder's Use]

# DEVELOPMENT AGREEMENT

by and between

**JUNIOR S. THIARA**
An Individual

and

**CITY OF YUBA CITY**
A General Law City

(West Railroad Village Development Agreement)

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**DEVELOPMENT AGREEMENT**
by and between

**JUNIOR S. THIARA**
An Individual

and

**CITY OF YUBA CITY,**
A General Law City

(West Railroad Village Development Agreement)

THIS DEVELOPMENT AGREEMENT dated _____, 2023 (Effective Date), at Yuba City, California (hereinafter referred to as "Agreement"), is entered into by and between Junior S Thiara, a married man, as his sole and separate property (hereinafter referred to as "West Railroad Village Landowner," "Landowner" or "Developer") and the City of Yuba City, a general law city, created and existing under the laws of the State of California (hereinafter referred to as "the City"), pursuant to the authority of Sections 65864 through 65869.5 of the Government Code of the State' of California.

## RECITALS

**A. State Authorization**. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864 *et seq*. of the Government Code (the "Development Agreement Statute"), which authorizes the City to enter into a binding property development agreement with any person having a legal or equitable interest in real property for the development associated with such property in order to establish certain development rights in the property which is the subject of the development project application.

**B. City Procedure and Requirements**. The City has implemented the provisions of Government Code Section 65864 *et seq*. and is authorized to enter into development agreements with persons having legal or equitable interests in real property located in the City.

**C. Landowner**. The Landowner is Junior S. Thiara, a married man, as his sole and separate property.

**D. Property**. The subject of this Agreement is the development of that certain property commonly known as West Railroad Village, consisting of approximately 15.84 acres located in the County of Sutter, as described in Exhibit A-I and depicted in Exhibit A-2, attached hereto and incorporated herein by reference (referred to as "the Property"). Landowner owns the Property in fee and represents that all other persons holding legal or equitable interests in the Property shall be bound by this Agreement.

**E. Bogue Stewart Master Plan herein after referred to as ("BSMP")**. The Property is located within the area that is part of the Bogue Stewart Master Plan.

**F. Project.** The development of the Property is in accordance with the City's General Plan, as amended, and the Development Approvals shall be referred to herein as the "Project."

**G. The Mitigated Negative Declaration**. The City examined the environmental effects of this Agreement and the Development Approvals in the Mitigated Negative Declaration (the "MND") (SCH No. 2024010060) prepared pursuant to the California Environmental Quality Act (CEQA). The City Council reviewed and certified the MND as adequate and complete as part of the approval of the Development Approvals.

**H. Purposes**. The Landowner and City desire to enter into an agreement for the purpose of implementing the plan for subdividing and development of West Railroad Village as set forth herein and Development Approvals and for mitigating the environmental impacts of such development as identified in the environmental document. The City has an expressed interest in ensuring the proper growth of the community by entering into Development Agreements as a method whereby a level of assurance can be achieved to meet that interest. The City has determined that the development of West Railroad Village pursuant to the proposed Tentative Subdivision Map 2023-002 is a development for which a Development Agreement is appropriate. A Development Agreement will provide certain benefits to the City; will eliminate uncertainty in the City's land use planning and secure orderly development of the Property in accordance with the policies and goals set forth in the City's General Plan. The Landowner has incurred and will incur substantial costs in order to comply with the conditions of approval and to assure development of the Property in accordance with this Agreement. In exchange for these benefits to the City and the public, the Landowner desires to receive assurance that the City shall grant permits and approvals required for the development of the Property in accordance with the Existing City Laws, subject to the terms and conditions contained in this Agreement. In order to effectuate these purposes, the Parties desire to enter into this Agreement.

**I. Entitlements Needed Prior to the Development Agreement**. The application for approval of this Agreement and the appropriate CEQA documentation required for approval of this Agreement, including:

- Tentative Subdivision Map 2023-002 (approvals may occur after adoption of the Development Agreement).
- Environmental Assessment 2023-07 (Certification of the Mitigated Negative Declaration).

The entitlements are collectively referred to as "Development Approvals."

**J. Reserved.**

**K. Development Agreement Adoption**. After conducting a duly noticed public hearing and making the requisite findings, the City Council, by the adoption of an Ordinance, approved this Agreement and authorized its execution. The City has determined that this Agreement furthers the public health, safety and general welfare, that the provisions of this Agreement are consistent with the goals and policies of the General Plan and is a community benefit. The City and Developer have determined that the project is a development for which this Agreement is appropriate. This Agreement

will eliminate uncertainty regarding Development Approvals and certain subsequent development approvals, thereby encouraging planning for, investment in and commitment to use and develop the Property. Continued use and development of the Property is anticipated to, in turn, provide the following substantial benefits and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement laws were enacted, including (1) providing for the development of unused land; (2) providing increased tax revenues for the City; (3) providing for jobs and economic development in the City; and (4) providing for infrastructure improvements that can be utilized by regional users and future users.

**L. Consistency with Yuba City General Plan**. Development of the Property in accordance with this Agreement will provide for orderly growth and development in accordance with the policies set forth in the City's General Plan, as amended and the Development Approvals. Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City Council finds and declares that this Agreement is consistent with the General Plan of the City and with the Development Approvals.

**M. Landowner Payments for the Costs of Public Infrastructure, Facilities, and Services**. Landowner agrees to pay the costs of such City of Yuba City public facilities and services as herein provided to mitigate impacts of the development of the Property, and City agrees to assure that Landowner may proceed and complete development of the Property, in accordance with the terms and conditions of this Agreement. The City's approval of development of the Property as provided herein is in reliance upon and in consideration of Landowner's agreement to make such payments toward the costs of public improvements and services as herein provided to mitigate the impacts of development of the Property.

**N. Development Agreement Ordinance**. City and Landowner have taken all actions mandated by and fulfilled all requirements set forth in the California Government Code Sections 65864 through 65869.5 regulating the use of development agreements.

**O. Flood Hazard**. The City has imposed conditions on the project that will protect the property to the urban level of flood protection in urban and urbanizing areas. Such conditions may also be implemented as conditions of tentative maps or other entitlements.

**NOW THEREFORE**, pursuant to the authority contained in Government Code Sections 65864 through 65869.5, and in consideration of the mutual covenants and promises contained herein, the adequacy and sufficiency of which is hereby acknowledged, the Landowner and the City, each individually referred to as a Party and collectively referred to as the Parties ("Parties"), agree as follows:

## AGREEMENT

## 1. General Provisions.

**1.1 Incorporation of Recitals**. The Preamble, the Recitals and all defined terms set forth in both, are hereby incorporated in this Agreement as if set forth herein in full.

**1.2 Definitions**. In addition to the defined terms in the Preamble and the Recitals, each reference in this Agreement to any of the following terms shall have the meaning set forth below for each such term. Certain other terms shall have the meaning set forth for such term in this Agreement.

**1.2.1 Approvals**. Any and all permits or approvals of any kind or character required under the City Laws in order to develop the Project, including, but not limited to, architectural review approvals, building permits, site clearance and demolition permits, grading permits and utility connection permits.

**1.2.2 City Laws**. The ordinances, resolutions, codes, rules, regulations and official policies of the City govern the permitted uses of land, density, design, improvements and construction standards and specifications applicable to the development of the Property. Specifically, but without limiting the generality of the foregoing, City Laws shall include the City's General Plan, the Planned Development, the Zoning Regulations of the City of Yuba City, and the Subdivision Regulations of the City of Yuba City.

**1.2.3 Conditions**. All conditions, exactions, fees or payments, dedication or reservation requirements, obligations for on or off-site improvements, services or other conditions of approval called for in connection with the development of or construction on the Property under the existing City Laws, whether such conditions of approval constitute public improvements, or mitigation measures in connection with environmental review of any aspect of the Project.

**1.2.4 Director**. The Director of the Development Services Department.

**1.2.5 Existing City Laws**. The City Laws in effect as of the Effective Date of this Agreement.

**1.2.6 Laws**. The laws and Constitution of the State of California, the laws and Constitution of the United States and any codes, statutes or executive mandates in any court decision, state or federal, thereunder.

**1.2.7 Mortgagee**. “Mortgagee” means: (a) the holder of the beneficial interest under a Mortgage; (b) the lessor under a sale and leaseback Mortgage; and (c) any successors, assigns and designees of the foregoing.

**1.2.8 Party.** A signatory to this Agreement: or a successor or assign of a signatory to this Agreement.

**1.2.9 Property**. The Property is that property described and shown on Exhibits A-I and A-2. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with the Property and the benefits

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and burdens hereof shall bind and inure to all successors-in-interest to the parties hereto.

**2. Effective Date: Term**.

**2.1 Recordation**. Not later than ten (10) days after the Effective Date, the Parties shall cause this Agreement to be recorded in the Official Records of the County of Sutter, State of California, as provided for in Government Code Section 65868.5. However, failure to record this Agreement within ten (10) days shall not affect its validity or enforceability by and between the Parties.

**2.2 Term**. Except as provided herein, the term of this Agreement shall commence on the Effective Date and terminate fifteen (10) years thereafter; provided, however, that the initial term may be extended, upon Developer's application therefore and upon the mutual agreement of both parties, by an amendment to this Agreement and after approval by the City Council after first receiving a recommendation by the Planning Commission.

Following the expiration of the Term, this Agreement shall be deemed terminated and be of no further force and effect; provided, however, said termination of the Agreement shall not affect any right or duty emanating from City Entitlements on the Property approved concurrently with or subsequent to the approval of this Agreement.

**3. General Development of the Project**.

**3.1 Project: Vested Entitlements**.

**3.1.1** The City has adopted certain approvals in connection with the Property, including the adoption of the Bogue Stewart Master Plan, the tentative map and Certification of the EIR (SCH #2017012009) for the Bogue Stewart Master Plan. To the extent the provisions of this Agreement conflicts with the General Plan and Bogue-Stewart Master Plan, those plans shall take precedence.

**3.1.2** Development of the Property shall be governed by this Agreement, and the Development Approvals. This Agreement does not impose affirmative obligations on the Landowner to commence development of the Project, or any phase thereof, in advance of its decision to do so.

**3.1.3** The permitted uses of the Property, the density and intensity of use, including, but not limited to, minimum landscape areas, maximum lot coverage, minimum and maximum number of parking spaces, and the allowable floor area ratios), and provisions for public improvements and all mitigation measures and conditions required or imposed in order to minimize or eliminate environmental impacts or any impacts of the Property applicable to development of the Property, are as set forth in ordinances, policies, and standards in effect as of the Effective Date and are hereby vested subject to the provisions of this Agreement ("Vested Entitlements").

**3.2 Project Phasing**. Landowner and City acknowledge and agree that the Project is designed to be developed in phases. The Parties also acknowledge and agree that presently the Landowner cannot predict the timing of the Project phasing. Because the California Supreme Court held in *Pardee Construction Co. v. City of*

*Camarillo* (1984) 37 Cal.3d 465, that failure of the Parties therein to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over the Parties' agreement, it is the Parties' intent to cure that deficiency by acknowledging and providing that the Landowner shall have the right to develop the building components of the Project in phases in accordance with the Development Approvals and at such times as the Landowner deems appropriate within the exercise of its subjective business judgment and the provisions of this Agreement.

**3.3 Other Government Permits**. The Landowner or City (whichever is appropriate) shall apply for such other permits and approvals from other governmental or quasi-governmental agencies having jurisdiction over the Project (such as public utility districts, Gilsizer County Drainage District, the U.S. Army Corps of Engineers, or Cal Trans) as may be required for the development of, or provision of services to, the Project. The City shall promptly and diligently cooperate, at no cost or damage to the City, with the Landowner in its endeavors to obtain such permits and approvals and, from time-to-time at the request of the Landowner, shall attempt with due diligence and in good faith to enter into binding agreements with any such entity in order to assume the availability of such permits and approvals of services. To the extent allowed by law, the Landowner shall be a party or third-party beneficiary to any such agreement and shall be entitled to enforce the rights of the Landowner or City thereunder or the duties and obligations of the parties thereto.

**3.4 Additional Fees**. Except as set forth in this Agreement, the City shall not impose any further or additional fees, taxes or assessments, whether through exercise of the police power, the taxing power, or any other means, other than those required by Existing City Laws and this Agreement, provided that:

**3.4.1 Community Facilities District.** Prior to the approval of any final map within the area covered by this Agreement, the Developer shall be required to enter into a Community Facilities District ("CFD") or similar funding mechanism acceptable to the City for the purpose of funding on-going operational costs for police, fire, and other government services and for the on-going maintenance costs for road and park facilities.

Developer shall cooperate in the formation or annexation to the CFD or funding mechanism, and irrevocably consents herewith to the levy of such special taxes, establishment of funding mechanisms, or collection of other fees or charges, as are necessary to fund the operational and/or maintenance costs.

**3.4.2** The City may charge the Landowner the standard processing fees for land use approvals, building permits and other similar permits, which are in force and effect on a City-wide basis at the time application is submitted for those permits.

**3.4.3** City shall have the authority to enact or increase development impact fees provided the fees are consistent with the fees applied to other properties in the City or area wide that is similarly situated.

**3.4.4** If the City exercises its taxing power in a manner which will not change any of the conditions applicable to the Project and so long as any taxes are uniformly applied on a City-wide or area-wide basis, as defined below, the Property may be so taxed, which tax shall be consistent with the taxation of other properties in the City or area wide that is similarly situated.

**3.4.5** If state or federal laws are adopted which enable cities to impose fees on existing projects and if, consequently, the City adopts enabling legislation and imposes fees on existing projects on a City-wide basis, these fees may be imposed on the Project, which fees shall be consistent with the fees imposed on other properties in the City similarly situated.

**3.4.6** Landowner shall pay the following fees:

i. City-wide development impact fees, which may include but not be limited to:

- Parks and Recreation
- Community Civic Center
- Fire Protection
- Library Services
- Police Protection
- Roadways/Traffic
- Flood Protection/Levee Improvements
- City Corporation Yard
- Drainage
- Administration Component
- Connection and Trunk Line Fees (Water and Sewer)
- Applicable County Development Impact Fees

ii. A Park and Recreation Development Impact Fee to cover development of neighborhood park per Section 4.2.5 of this Agreement.

iii. Any fees that Developer is obligated to directly pay to any Federal, State, County or local agency (other than any City Agency) under applicable Federal, State, County or local law.

iv. Any fees the City is legally required to collect for other State or Federal agencies pursuant to State or Federal law or any City agreement or City ordinance that the City is legally mandated or required to adopt or enter into to comply with State or Federal law or a judgment of a court of law, but only to the extent necessary to satisfy such compliance.

Fees shall be paid at the then-applicable rate in effect at the time building permits are obtained. Certain City fees may be deferred to prior to issuance of a certificate of occupancy if otherwise allowed by City ordinance, regulation, or policy.

The parties also acknowledge that the City is currently assessing a publicly administered fee program for the Bogue-Stewart Master Plan area. If adopted, this program may impose fee(s) applicable to the entire area including the Property. Landowner agrees to pay such fee(s) once adopted by the City. Nothing in this Agreement shall preclude Landowner from objecting to or contesting the adoption of the fees in the same manner as any other member of the public.

**3.4.7** For purposes of this Agreement, "area wide" shall cover not only the Property, but also at least all parcels zoned and/or developed in a manner similar to the Property and located in the combined area of the Master Plan. The Parties acknowledge that the provisions contained in this Section 3.4 are intended to implement the intent of the Parties that the Landowner has the right to develop the Project pursuant to specified and known criteria and rules, and that the City receives the benefits which will be conferred as a result of such development without abridging the right of the City to act in accordance with its powers, duties and obligations.

**3.5 Applicable Laws and Standards**. Notwithstanding any change in any Existing City Law, including but not limited to, any change by means of ordinance, resolution, initiative, referendum, policy or moratorium, and except as otherwise provided in this Agreement, the laws and policies applicable to the Property are set forth in Existing City Laws (regardless of future changes in these by the City), and this Agreement. The Project has vested rights to be built and occupied on the Property, provided that the City may apply and enforce the Uniform Building Code (including the Uniform Mechanical Code, Uniform Electrical Code and Uniform Plumbing Code) and Uniform Fire Code and all applicable hazardous materials regulations in effect at the time the Landowner applies for any particular building permits for any particular building or other development aspect of the Project.

**3.6 Application of New Laws**. Nothing herein shall prevent the City from applying to the Property new federal, state or City Laws that are not inconsistent or in conflict with the Existing City Laws or the intent, purposes or any of the terms, standards or conditions of this Agreement; and which do not alter the terms, impose any further or additional fees or impose any other conditions requiring additional traffic improvements requirements or additional off-site improvements that are inconsistent with this Agreement or the intent of this Agreement. Any action or proceeding of the City that has any of the following effects on the Project shall be considered to be in conflict with this Agreement and the existing City Laws, and shall not be applied by the City to the Project or this Agreement:

**3.6.1** Limiting the uses permitted on the Property;

**3.6.2** Limiting or reducing the density or intensity of uses, the maximum height, the allowable floor area ratios, the required number of parking spaces, increasing the amount of required landscaping or reservations and dedications of land for public purposes;

**3.6.3** Limiting the timing or phasing of the Project in any manner that is inconsistent with or more restrictive than the provisions of this Agreement;

**3.6.4** Limiting the location of building sites, grading or other improvement on the Property in a manner that is inconsistent with or more restrictive than the limitations included in this Agreement; or

**3.6.5** Applying to the Project or the Property any law, regulation, or rule restricting or affecting a use or activity otherwise allowed by this Agreement.

**3.7 Moratorium, Quotas, Restrictions, or Other Limitations**. Without limiting the City's standard application processing procedures, no moratorium or other limitation affecting building permits or other land use entitlements, or the rate, timing or sequencing thereof shall apply to the Project.

**3.8 Easements: Improvements**. The City shall cooperate with the Landowner in connection with any arrangements for abandoning existing utility or other easements and facilities and the relocation thereof or creation of any new easements within the Property necessary or appropriate in connection with the development of the Project.

**3.9 Farming Rights**. The City shall acknowledge that the Landowner shall have the right to continue to farm the lands non-developed portion of the property.

## 4. Developer Obligations

**4.1 Public Improvements:** Developer shall be responsible for constructing and financing the public infrastructure improvements necessary to serve the Project and as provided in this Agreement and the Development Approvals including the BSMP Public Facilities Financing Plan. Developer agrees to dedicate, construct or acquire the improvements or facilities and to perform the obligations set forth in this Section at its expense, subject only to those reimbursements and credits as specified in this Agreement. Public infrastructure improvements shall be designed and constructed in accordance with the improvement plans approved by City for such improvements, and in accordance with the requirements and regulations pursuant to California State law.

**4.2 Developer Obligations**. Developer shall be obligated to construct and finance the public infrastructure improvements as called out in the BSMP Public Facilities Finance Plan and as provided below, in accordance with the BSMP and consistent with the City's infrastructure Master Plans. Developer shall be required to post appropriate financial security with City prior to recordation of Final Maps, consistent with Project conditions of approval and as called out in the Public Facilities Financing Plan. The developer may be entitled to fee credits as provided in Section 5.1.

**4.2.1 Roads**. Roads shall be constructed per the approved phased infrastructure improvement matrix per the Project conditions of approval, the BSMP, and as provided in the approved tentative maps or other discretionary City permits. On-site improvements shall be as per project approvals and approved improvement plans.

**4.2.2 Storm Drainage**. Developer shall provide necessary on-site and off-site improvements for storm drainage consistent with Project conditions of approval and as required by the City and the BSMP. Improvements shall be constructed for the approved phased infrastructure improvement per the tentative map conditions of approval, Planned Development, and as provided in the approved tentative maps or other discretionary City permits.

**4.2.3 Sewer**. Developer shall construct sewer lines consistent with the BSMP and Project conditions of approval of the tentative map and other discretionary City permits. Improvements shall be constructed for the approved phased infrastructure improvement per the tentative map conditions of approval, Planned Development, and as provided in the approved tentative maps or other discretionary City permits.

**4.2.4 Water**. Developer shall construct water line improvements consistent with the BSMP and conditions of approval of the tentative maps and other discretionary City permits. Developer shall also be responsible for all on-site water line improvements. Improvements shall be constructed for the approved phased infrastructure improvement per the tentative map conditions of approval, Planned Development, and as provided in the approved tentative maps or other discretionary City permits.

**4.2.5 Neighborhood Park Impact Fee.** Developer shall pay to City a supplement to the Park and Recreation Development Impact Fee to cover development of neighborhood parks in the amount of $3,200 per single-family residential unit and $2,300 per multifamily unit, prior to issuance of a certificate of occupancy for each lot developed. Said fee shall be considered in addition to the City's existing Park and Recreation development impact fee specified in Section 3.4.7 of this Agreement. This fee is subject to inflation utilizing the

Engineering News and Record Construction Index beginning January 2020. This fee shall become inoperative should the City adopt a comprehensive Park and Recreation Development Impact fee update where neighborhood parks are incorporated into the City's fee program. The Project shall then be required to pay the comprehensive Park and Recreation Development Impact fee. Neighborhood Park Supplement Development Impact Fees acquired or earned prior to a comprehensive Park and Recreation Development Impact fee will remain to be considered Park and Recreation fee credits or reimbursements

**4.3 Reimbursement by Developer to Third Parties**. In the event that facilities, including, but not limited to, roadway, sewer, water, drainage, and parks are constructed by third parties which benefit Developer, Developer agrees that it will pay to City for reimbursement to the third parties, Developer's pro-rata share, as reasonably determined by the City, of the cost of construction prior to the issuance of the first building permit in the Project. Third party reimbursement will include, in addition to construction costs, those costs associated with planning, design and permitting as set forth in Section 4.1 of this Agreement.

**4.4 Covenants, Conditions and Restrictions; Enforcement by City**. Upon the recordation of each final subdivision map or other development project, Developer shall record against such portion of the Property a master set of covenants, conditions and restrictions ("CC&R's") to require the development and use of the property to be consistent with the Project Entitlement development plan or other appropriate City designation and applicable design guidelines for the Project. The CC&R's shall include the covenants that all structures and landscaping within the Project are to be built, installed and maintained in accordance with the Master Plan and subject to an obligation to obtain design approval from the City prior to any construction or modification of such improvements. The CC&R's shall provide that the City shall be a third-party beneficiary thereof and may not be amended without the City's consent. As a third-party beneficiary, the City shall have the right, but no obligation, to review and/or enforce any covenant under the CC&R's and the City shall not be obligated hereby to respond to any demands or complaints thereunder or otherwise take any action with respect thereto. The CC&R's shall give the City the same rights as any other owner of record and enforce liens to recover the costs of such enforcement, which may include costs to perform maintenance obligations, remove trash or debris, tow any unlawfully parked vehicles, or other such violations, all at the cost of any defaulting party. The form of such CC&R's shall be subject to the review and approval by the City Attorney, which shall not be unreasonably withheld, prior to recordation thereof and prior to any amendment thereof that may affect the City's enforcement rights thereunder. City acknowledges that Developer shall not be obligated by the foregoing to form a homeowner's association.

**4.5 Reimbursement for City Costs**. Developer shall reimburse City for all of City's costs incurred in the drafting, negotiating, development, and implementation of this Agreement, including, but not limited to, the annual review pursuant to Section 6.1. Said costs shall include, but not be limited to, the full cost recovery of all City's staff time and City's attorney fees. This Agreement shall not take effect until the City costs, as provided for in this section, owed by Developer to City are paid to the City.

**4.6 Building and Site Design**. Developer shall comply with the design intent in the City-wide adopted Design Guidelines.

## 5. Reimbursement and Fee Credits, Financing, and Right-of Way

### 5.1 Reimbursement to Developer for Oversizing

**5.1.1** Developer agrees the City may require Developer to construct certain on-site and off-site improvements in a manner that provides for oversize or excess capacity beyond that size or capacity needed to serve the project (collectively "Oversizing") so that the constructed improvement will be available to serve other development or residences or facilities outside of the Property. The City shall not require any Oversizing from the Developer except in connection with project approvals or in Development Approvals, and in accordance with the provisions of the Subdivision Map Act. Developer may be entitled to a fee credit or reimbursement for Oversizing improvements per Section 5 of this Agreement.

**5.1.2** In the event that City requires Developer to install a specific improvement (for example, a traffic signal), Developer's obligation to pay the relevant development impact fees otherwise owed under this Agreement regarding the category of improvement the Developer is installing shall be satisfied by the installation of such improvement in the manner mutually agreed upon by the City and the Developer so long as the amount of the development impact fees for this category of improvement does not exceed the cost of such improvement. City shall accept Developer's dedication of such improvements, consistent with the terms and conditions of this Agreement.

By entering into this Agreement, City and Developer agree that certain facilities, including, but not limited to, roadway, sewer, water, and drainage will be constructed by Developer pursuant to this Agreement which will benefit third-party landowners. Developer shall be entitled to a fee credit for any such facilities to the extent they benefit third party landowners in an amount as reasonably determined by the City. If Developer's fee credit for a particular facility exceeds the amount of the fee owed, then Developer shall be reimbursed for the amount the fee credit exceeds the fee owed by the benefited third-party landowners. Developer shall request the City enter into a Reimbursement Agreement, which shall specify the reimbursement calculations and amounts as determined by the City. The Reimbursement Agreement will require future development by third-party landowners benefiting from the Oversizing to reimburse Developer's pro-rata share for a period of up to twenty (20) years from the installation of the oversizing or other qualifying improvements benefiting third-party landowners, provided, that Developer shall have the right to extend the initial twenty (20) year period with a single five (5) year extension request. The extension request must be received, by the City, in writing six months prior to the expiration of the Reimbursement Agreement. The City Council is authorized to enter into a Reimbursement Agreement on behalf of the City subject to approval as to legal form by the City Attorney.

**5.1.3 Reimbursement Calculations**. City will provide Developer with the available documentation showing the basis for the reimbursement amounts pursuant to Section 4.1. The reimbursement obligations provided in this Agreement will be in amounts as reasonably determined by the City.

**5.1.4 Reimbursement Personal to Constructing Owner**. All rights to reimbursement created pursuant to Section 4.1 shall be personal to the owner installing the improvements and shall not run with the land unless such rights are expressly assigned in writing.

**5.2 City's Support of Public Financing for Project Improvements**. Development of the Project requires the investment of significant capital to fund the Project's necessary major infrastructure. Developer may, at its discretion, seek public financing mechanism for financing the construction, improvement or acquisition of major infrastructure. At the request of Developer, the City may consider the use of finance districts, special assessment

districts, and other similar project-related public financing mechanisms to fund the Project's necessary infrastructure.

**5.3 Right-of-Way Acquisition**. With respect to the acquisition of any off-site interest in real property required by Developer in order to fulfill any condition required by the Project or the Entitlements, Developer shall make a good faith effort to acquire the necessary interest by private negotiations at the fair market value of such interest. If, after such reasonable efforts, Developer has been unable to acquire such interest and provided that Developer (i) provides evidence of a good faith effort to acquire the necessary property interest to the reasonable satisfaction of City and (ii) agrees to pay the cost of such acquisition, including reasonable attorney's fees, City shall make an offer to acquire the necessary property interest at its fair market value. If such offer has not been accepted within 60 days, City agrees, to the extent permitted by law, to cooperate and assist Developer in efforts to obtain such necessary property interest. Any such acquisition by City shall be subject to City's good faith discretion, which is expressly reserved by City, to make the necessary findings, including a finding thereby of public necessity, to acquire such interest. Subject to the reservation of such good faith discretion, the City shall schedule the necessary hearings, and if approved by City, thereafter prosecute to completion the proceedings and action to acquire the necessary property interests by power of eminent domain.

Developer shall fund all costs of the acquisition of such necessary property interests, including reasonable attorney's fees and court costs in the event that such acquisition and/or condemnation is necessary.

**6. Annual Review**.

**6.1 Good Faith Compliance**. Developer shall annually provide documentation of good faith compliance with this agreement per Govt. Code Section 65865.1 to the City and shall reimburse the City for any processing under Section 6. The City may, at least every twelve (12) months, during the Term of this Agreement, conduct a public meeting to review the extent of good faith substantial compliance by Landowner with the terms of this Agreement at Landowner's expense. Such periodic review shall be limited in scope to compliance with the terms of this Agreement pursuant to Government Code Section 65865.1. Notice of such annual review will be provided by the Development Services Director to Landowner thirty (30) days prior to the date of the public meeting by the Planning Commission and shall include the statement that any review may result in amendment or termination of this Agreement as provided herein. A finding by the City of good faith compliance by the Landowner with the terms of Agreement shall conclusively determine the issue up to and including the date of such review. Nothing in this Section shall be deemed to create a duty of responsibility of City or Landowner or define an event of default that but for such concurrent review would not have been so created or defined.

**6.2 Failure to Comply in Good Faith**. If the City Council makes a finding that the Landowner has not complied in good faith with the terms and conditions of this Agreement, the City shall provide written notice to the Landowner describing: (i) such failure to comply with the terms and conditions of this Agreement (referenced to herein as a "Default"); (ii) the actions, if any, required by the Landowner to cure such Default; and (iii) the time period within which such Default must be cured. The Landowner shall have, at a minimum, thirty (30) business days after the date of such notice to cure such Default, or in the event that such Default cannot be cured within such

thirty (30) day period but can be cured within one (1) year, the Landowner shall have commenced the actions necessary to cure such Default and shall be diligently proceeding to complete such actions necessary to cure such Default within thirty (30) days from the date of notice. If the Default cannot be cured within one (1) year, as determined by the City during periodic or special review, the City Council may modify or terminate this, Agreement as provided in Section 6.4 and Section 6.5.

**6.3 Failure to Cure Default**. If the Landowner fails to cure a Default within the time periods set forth above, the City Council may modify or terminate this Agreement as provided below.

**6.4 Proceedings Upon Modification or Termination**. If, upon a finding under Section 6.2 and the expiration of the cure period, the City determines to proceed with modification or termination of this Agreement, the City shall give written notice to the Landowner of its intention to do so. The notice shall be given at least fifteen (15) calendar days before the scheduled hearing and shall contain:

**6.4.1** The time and place of the hearing;

**6.4.2** A statement as to whether or not the City proposes to terminate or to modify the Agreement; and

**6.4.3** Such other information as is reasonably necessary to inform the Landowner of the nature of the proceeding.

**6.5 Hearings on Modification or Termination**. At the time and place set for the hearing on modification or termination, the Landowner shall be given an opportunity to be heard, and the Landowner shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on the issue shall be on the Landowner. If the City Council finds, based upon substantial evidence, that the Landowner has not complied in good faith with the terms or conditions of the Agreement, the City Council may terminate this Agreement or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City.

**7. Permitted Delays**.

**7.1 Extension of Times of Performance**. In addition to specific provisions of this Agreement, performance by either Party under this Agreement shall not be deemed to be in default where delays or, defaults are due to war, insurrection, strikes, lockouts, walkouts, drought, riots, floods, earthquakes, fire, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, restrictions imposed by governmental or quasigovernmental entities other than the City, unusually severe weather, acts of the other Party, acts or the failure to act of any public or government agency or entity other than the City, or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of cause. If, however, notice by the Party claiming such extension of time is sent to the other Party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of

performance under this Agreement may also be extended in writing by the joint agreement of the City and Landowner. Litigation attacking the validity of this Agreement, or any permit, ordinance, or entitlement or other action of a governmental agency necessary for the development of the Property pursuant to this Agreement shall also be deemed to create an excusable delay under this Section.

**7.2 Supersedure by Subsequent Laws**. If any Law made or enacted after the date of this Agreement prevents or precludes compliance with one or more provisions of this Agreement, then the provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with such new Law. Immediately after enactment of any such new Law, the Parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. If such modification or suspension is infeasible in the Landowner's reasonable business Judgment, then the Landowner shall have the right to terminate this Agreement by written notice to the City. The Landowner shall also have the right to challenge the new Law preventing compliance with the terms of this Agreement, and, in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

**8. Termination.**

**8.1 City's Right to Terminate**. The City shall have the right to terminate this Agreement if the Landowner is not in substantial compliance with the terms of this Agreement and this default remains uncured, all as set forth in Section 6.

**8.2 Landowner's Right to Terminate**. The Landowner shall have the right to terminate this Agreement only under the following circumstances:

**8.2.1** The Landowner has found the City in breach of this Agreement, has given the City notice of such breach and the City has not cured such breach within thirty (30) days of receipt of such notice or, if the breach cannot reasonably be cured within such thirty (30) day period, if the City has not commenced to cure such breach within thirty (30) days of receipt of such notice and is not diligently proceeding to cure such breach.

**8.2.2** The Landowner is unable to complete the Project because of supersedure by a subsequent law per Section 7.2 or court action.

**8.2.3** The Landowner determines, in its business judgment, that it is not practical or reasonable to pursue development of the Property, however if termination occurs for this reason the City reserves the right to revoke any remaining entitlement to develop the property.

**8.3 Mutual Agreement**. This Agreement may be terminated upon the mutual Agreement of the Parties.

**8.4 Effect of Termination.**

**8.4.1 General Effect**. If this Agreement is terminated for any reason, such termination shall not affect any condition or obligation due to the City from the Landowner prior to the date of termination and such termination shall not otherwise

affect any other City entitlement or approval with respect to the Property that has been granted prior to the date of termination.

**8.5 Recordation of Termination**. In the event of a termination, the City and Landowner agree to cooperate with one another in executing a Memorandum of Termination to record in the Official Records of Sutter County within thirty (30) days of the date of termination.

**9. Remedies**. Either Party may, in addition to any other rights or remedies, institute legal or equitable action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation or enforce by specific performance the obligations and rights of the Parties hereto.

**10. Waiver: Cumulative Remedies**. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of an event of default shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omission by a Party to take any action with respect to such event of default. No express written waiver of any event of default shall affect any other event of default, or cover any other period of time, other than any event of default and/or period of time specified in such express waiver. Except as provided in this Section, all of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

**11. Project as a Private Undertaking**. It is specifically understood and agreed by and between the Parties that the Project is a private development. This Agreement is made and entered into for the sole protection and benefit of the Landowner and the City and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement. The City and Landowner hereby renounce the existence of any third-party beneficiary to this Agreement and agree that nothing contained herein shall be construed as giving any other person or entity third-party beneficiary status. No partnership, joint venture or other association of any kind is formed by this Agreement.

**12. Cooperation in the Event of Legal Claim**. In the event any legal action or proceeding is instituted by any third-party challenging the validity of any provision of this Agreement or any action or decision taken or made hereunder, the Parties shall cooperate in defending such action or proceeding.

**13. Estoppel Certificate**. Either Party may, at any time, and from time-to-time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties; ii) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing therein the nature and amount of any such defaults; and (iv) the requesting Party has been found to be in compliance with this

Agreement, and the date of the last determination of such compliance. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following receipt thereof. The Director shall have the right to execute any certificate requested by the Landowner hereunder. The City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

**14. Right to Assign or Transfer**. The Landowner's rights and responsibilities hereunder may be sold or assigned in conjunction with the transfer, sale or assignment of the Property at any time during the term of this Agreement subject to the following conditions precedent:

**14.1** No default by Developer shall be outstanding and uncured as of the effective date of the proposed transfer, unless the City Council has received adequate assurances satisfactory to the City Council that such default shall be cured in a timely manner either by Developer or the transferee under the transfer.

**14.2** Prior to the effective date of the proposed transfer, Developer or the proposed transferee has delivered to the City an executed and acknowledged assignment and assumption agreement (the "Assumption Agreement") in recordable form. Such Assumption Agreement shall include provisions regarding: (a) the rights and interest proposed to be transferred to the proposed transferee; (b) the obligations of Developer under this Agreement that the proposed transferee will assume; and (c) the proposed transferee's acknowledgment that such transferee has reviewed and agrees to be bound by this Agreement. The Assumption Agreement shall also include the name, form of entity, and address of the proposed transferee, and shall provide that the transferee assumes the obligations of Developer to be assumed by the transferee in connection with the proposed transfer. The Assumption Agreement shall be recorded in the official records of the County of Sutter concurrently with the consummation of the transfer.

**14.3** Prior to the effective date of the proposed transfer, the Developer must obtain the City's consent in writing to the transfer, which may be evidenced by the City Council's approval of an Assumption Agreement. City's consent shall not be unreasonably withheld. Factors the City may consider in determining whether to consent to the transfer include the financial capacity of the proposed transferee to comply with all of the terms of the Agreement and the history, if any, of compliance of transferee, its principals, officers or owners with the provisions of federal or state law, the Yuba City Municipal Code or agreements with the City relating to development projects within the City.

**14.4** Mortgagee as Transferee. No Mortgage (including the execution and delivery thereof to the Mortgagee) shall constitute a transfer. A Mortgagee shall be a transferee only upon: (a) the acquisition by such Mortgagee of the affected interest of Developer encumbered by such Mortgagee's Mortgage; and (b) delivery to the City of an Assumption Agreement executed by the Mortgagee pursuant to which the Mortgagee assumes assuming, from and after the date such Mortgagee so acquires its interest, the applicable rights, duties and obligations of Developer under this Agreement. No further consent of the City shall be required for any such transfer to a Mortgagee.

**14.5** Effect of Transfer. A transferee shall become a Party to this Agreement only with respect to the interest transferred to it under the transfer and then only to the extent set forth in the Assumption Agreement. If Developer transfers all of its rights, duties and obligations under this Agreement, Developer shall be released from any and all obligations

accruing after the date of the transfer under this Agreement. If Developer effectuates a transfer as to only some but not all of its rights, duties and obligations under this Agreement, Developer shall be released only from its obligations accruing after the date of the transfer which the transferee assumes in the Assumption Agreement.

**15 Financing**. Mortgages, deeds of trust, sales and leasebacks, or other forms of conveyance required for any reasonable method of financing requiring a security arrangement with respect to the Property ("Mortgages") are permitted without the consent of the City, provided the Landowner complies with the following:

**15.1 Mortgagee Protection.** This Agreement and any covenants entered into between the Developer and City shall be superior and senior to the conveyance of any Mortgage encumbering any interest in the Property. No default shall defeat, render invalid, diminish or impair the conveyance of any Mortgage made for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against any person (including any Mortgagee) who acquires title to the Property or any portion thereof or interest therein or improvement thereon, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

**15.2 Mortgagee Not Obligated; Mortgagee as Transferee.** No Mortgagee shall have any obligation or duty under this Agreement whatsoever, except that nothing contained in this Agreement shall be deemed to permit or authorize any Mortgagee to undertake any new construction or improvement in the West Railroad Village Project Area, or to otherwise have the benefit of any rights of Developer, or to enforce any obligation of the City, under this Agreement, unless and until such Mortgagee elects to become a Transferee in the manner specified in this Agreement. Any Mortgagee that affirmatively elects to become a Transferee shall be later released from all obligations and liabilities under this Agreement upon the subsequent transfer by the Mortgagee of its interest as a transferee to another person.

**15.3 Entitlement to Written Notice of Default.** The Mortgagee of a Mortgage or beneficiary of a deed of trust encumbering the Property, or any part thereof, and their successors and assigns shall, upon written request to the City, be entitled to receive from the City written notification of any default by Landowner of the performance of Landowner's obligations under this Agreement which has not been cured within sixty (60) days following the date of default. Landowner shall reimburse the City for its actual costs, reasonably and necessarily incurred, to prepare this notice of default.

**15.4 Priority of Mortgages and Subordination.** Landowner shall ensure that all Mortgages subordinate to this Agreement. For purposes of exercising any remedy of a Mortgagee or for becoming a Transferee, the applicable laws of the State of California shall govern the rights, remedies and priorities of each Mortgagee, absent a written agreement between Mortgagees otherwise providing.

**15.5 Collateral Assignment.** As additional security to a Mortgagee under a Mortgage on the Property or any portion thereof, Developer shall have the right, without the consent of the City, to execute a collateral assignment of Developer's rights, benefits and remedies under this Agreement in favor of the Mortgagee (a "Collateral Assignment") on the standard form provided by the Mortgagee.

**16. Covenants to Run with the Land**. All of the provisions, agreements, rights, powers, standards, terms, covenants, and obligations contained in this

Agreement shall be binding upon the Parties and their respective heirs, successors, assignees, devises, administrators, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors and assignees. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder: (i) is for the benefit of such properties and is a burden upon such properties; (ii) runs with such properties; and (iii) is binding upon each Party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such properties, or any portion thereof, and shall benefit each Party and its property hereunder, and each other person succeeding to an interest in such properties; provided that no liability or obligation shall accrue to any person, if this Agreement terminates pursuant to Section 8 of this Agreement.

**17. Amendment**.

**17.1 Amendment or Cancellation**. Except as otherwise provided in this Agreement, this Agreement may be canceled, modified or amended only by mutual consent of the Parties in writing, and then only in the manner provided for in Government Code Section 65868. Minor amendments to this Agreement may be made without a public hearing upon approval of the Development Services Director. "Minor Amendments" shall mean amendments which are similar in significance to the type of minor amendments to land use entitlements that may be made without a full public hearing or approval of the Planning Commission or City Council pursuant to the Yuba City Municipal Code.

**17.2 Recordation**. Any amendment, termination or cancellation of this Agreement shall be recorded by the City Clerk not later than ten (10) days after the effective date of the action effecting such amendment, termination or cancellation; however, a failure to record shall not affect the validity of the amendment, termination or cancellation.

**18. Notices**.

**18.1 Procedure**. Any notice to either Party shall be in writing and given by delivering the notice in person or by sending the notice by registered or certified mail, or Express Mail, return receipt requested, with postage prepaid, to the Party's mailing address.

**18.2 Mailing Addresses**. The respective mailing addresses of the Parties are, until changed as hereinafter provided, the following:

| | |
|---|---|
| City: | Development Services Director<br>City of Yuba City<br>1201 Civic Center Blvd.<br>Yuba City, CA 95993 |
| With a copy to: | City Manager |

City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

Landowners: Junior S. Thiara
P.O. Box 3546
Yuba City, CA 95992

With a copy to: MHM Incorporated
Attn: Sean Minard
P.O. Box B
Marysville, CA 95901

Either Party may change its mailing address at any time by giving ten (10) days' notice of such change in the manner provided for in this section. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal delivery is affected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. Nothing in this provision shall be construed to prohibit communication by facsimile transmission, so long as an original is sent by first class mail, commercial carrier or is hand-delivered.

**19. Indemnification.**

**19.1 Third Party Actions.** To the furthest extent allowed by law, Developer shall indemnify, hold harmless and immediately defend, with counsel of City's choosing, City and each of its officers, officials, employees, agents, attorneys, and volunteers from any and all loss, liability, fines, penalties, forfeitures, damages and costs (including attorney's fees, litigation expenses and administrative record preparation costs) arising from, resulting from, or in connection with any Third-Party Action (as hereinafter defined). The term "Third Party Action" collectively means any legal action or other proceeding instituted by (i) a third party or parties or (ii) a governmental body, agency or official other than the City or a City Agency, that: (a) challenges or contests any or all of this Agreement, the West Railroad Village Subdivision Map Applications and Approvals, or the Development Approvals; or (b) claims or alleges a violation of CEQA or another law in connection with the certification of the EIR by the City Council or the grant, issuance or approval by the City of any or all of this Agreement, the West Railroad Village Subdivision Map Applications and Approvals, and the Development Approvals. Developer's obligations under this Section shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties forfeitures, costs or damages caused solely by the active negligence or willful misconduct of the City or any of its officers, officials, employees, agents or volunteers. The provisions of this Section shall survive the termination of this Agreement.

**19.2 Damage Claims.** The nature and extent of Developer's obligations to indemnify, defend and hold harmless the City with regard to events or circumstances not addressed in Section 19.1 shall be governed by this Section 19.2. To the furthest extent allowed by law, Developer shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, attorneys, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by

City, Developer or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement or the performance of any or all work to be done by Developer or its contractors, agents, successors and assigns pursuant to this Agreement (including, but not limited to design, construction and/or ongoing operation and maintenance of off-site improvements unless and until such off-site improvements are dedicated to and officially accepted by the City). Developer's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, attorneys, or agents are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or the willful misconduct, of City or any of its officers, officials, employees, agents, attorneys, or volunteers.

If Developer should subcontract all or any portion of the services to be performed under this Agreement, Developer shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, attorneys, and volunteers in accordance with the terms of the preceding paragraph. The Developer further agrees that the use for any purpose and by any person of any and all of the streets and improvements required under this Agreement, shall be at the sole and exclusive risk of the Developer, at all times prior to final acceptance by the City of the completed street and other improvements, unless any loss, liability, fines, penalties, forfeitures, costs or damages arising from said use were caused by the active or sole negligence, or the willful misconduct, of the City or any of its officers, officials, employees, agents or volunteers.

Notwithstanding the preceding paragraph, to the extent that Subcontractor is a “design professional” as defined in Section 2782.8 of the California Civil Code and performing work hereunder as a “design professional” shall, in lieu of the preceding paragraph, be required to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers to the furthest extent allowed by law, from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in Agreement, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

This Section shall survive termination or expiration of this Agreement.

**20. Insurance.** Prior to starting construction of any phase of the project through the date of City’s final formal acceptance of off-site improvements constructed pursuant to the terms of this Agreement (the “Insurance Period”), Developer shall pay for and maintain in full force and effect all policies of insurance described in this Section with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Best's Insurance Rating Guide, or (ii) authorized by City’s Public Work’s Director. The following policies of insurance are required:

**20.1 Commercial General Liability.** Insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and shall include insurance for bodily injury, property damage and personal injury with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, contractual liability (including indemnity obligations under this Agreement), with limits of liability of not less than

$1,000,000 per occurrence for bodily injury and property damage, $1,000,000 per occurrence for personal injury, $1,000,000 general aggregate and $1,000,000 aggregate for products and completed operations and $5,000,000 general aggregate.

**20.2 Commercial Automobile Liability.** Insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Business Auto Coverage Form CA 00 01 and shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1 B Any Auto), with combined single limits of liability of not less than $1,000,000 per accident for bodily injury and property damage.

**20.3 Workers Compensation.** Insurance as required under the California Labor Code.

**20.4 Employers Liability.** Minimum limits of liability of not less than $1,000,000 each accident, $1,000,000 policy limit and $1,000,000 for each employee.

In the event Developer purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Developer shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Developer shall also be responsible for payment of any self-insured retentions.

The above-described policies of insurance shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of City of policy cancellation of coverage, except for the Workers' Compensation policy which shall provide a ten (10) calendar day written notice of such cancellation of coverage. In the event any policies are due to expire during the term of this Agreement, Developer shall provide a new certificate evidencing renewal of such policy not less than ten (10) calendar days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, Developer shall file with City a new certificate and all applicable endorsements for such policy(ies).

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, attorneys, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Developer's insurance shall be primary, and no contribution shall be required of City. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. Developer shall have furnished City with the certificate(s) and applicable endorsements for all required insurance prior to start of construction of any phase of development. Developer shall furnish City with copies of the actual policies upon the request of City's Director of Public Works at any time during the life of the Agreement or any extension, and this requirement shall survive termination or expiration of this Agreement.

If at any time during the Insurance Period, Developer fails to maintain the required insurance in full force and effect, the Director of Public Works, or designee, may order that the Developer, or its contractors or subcontractors, immediately discontinue any further work under this Agreement and take all necessary actions to secure the work site to ensure that public health and safety is protected. All payments due or that become due to Developer shall be withheld until notice is received by City that the required insurance has been restored to full force and

effect and that the premiums therefore have been paid for a period satisfactory to City. The insurance requirements set forth in this Section are material terms of this Agreement.

If Developer should hire a general contractor to provide all or any portion of the services or work to be performed under this Agreement, Developer shall require the general contractor to provide insurance protection in favor of City, its officers, officials, employees, attorneys, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that the general contractor's certificates and endorsements shall be on file with Developer and City prior to the commencement of any work by the general contractor.

If the general contractor should subcontract all or a portion of the services or work to be performed under this Agreement to one or more subcontractors, Developer shall require the general contractor to require each subcontractor to provide insurance protection in favor of City, its officers, officials, employees, attorneys, volunteers and agents in accordance with the terms of each of the preceding paragraphs, except that each subcontractor shall be required to pay for and maintain Commercial General Liability insurance with limits of liability of not less than $1,000,000 per occurrence for bodily injury and property damage, $1,000,000 per occurrence for personal injury, $1,000,000 aggregate for products and completed operations and $1,000,000 general aggregate and Commercial Automobile Liability insurance with limits of liability of not less than less than $1,000,000 per accident for bodily injury and property damage. Subcontractors' certificates and endorsements shall be on file with the general contractor, Developer and City prior to the commencement of any work by the subcontractor. Developer's failure to comply with these requirements shall constitute a default of this Agreement.

**21. Miscellaneous.**

**21.1 Approvals**. Unless otherwise provided herein, whenever approval, consent or satisfaction (herein collectively referred to as an "approval") is required of a Party pursuant to this Agreement, such approval shall not be unreasonably withheld. If a Party shall disapprove, the reasons therefore shall be stated in reasonable detail in writing. Approval by a Party to or of any act or request by the other Party shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests. The Parties acknowledge and agree that the intent of the Parties is that this Agreement be construed in a manner that protects the rights granted to Landowner herein as allowed by law. Except for the limitations on the exercise by the City of its police power which are provided in this Agreement or which are construed in accordance with the immediately preceding sentence, the Parties further acknowledge and agree that: (a) the City reserves all of its police power and/or statutory or other legal powers or responsibilities; and (b) this Agreement shall not be construed to limit the authority or obligation of the City to hold necessary public hearings, to limit the discretion of the City or any of its officers or officials with regard to rules, regulations, ordinances, laws, and entitlement of use which require the exercise of discretion by the City or any of its officers or officials. This Agreement shall not be construed to limit the obligations of the City to comply with CEQA or any other federal or state law.

**21.2 Project Approvals Independent**. All approvals that may be granted pursuant to this Agreement, and all approvals or other land use approvals which have been or may be issued or granted by the City with respect to the Property, constitute independent actions and approvals by the City. If any provisions of this Agreement or the application of any provision of this Agreement to a particular situation

is held by a court of competent jurisdiction to be invalid or unenforceable, or if the City terminates this Agreement for any reason, such invalidity, unenforceability or termination of this Agreement or any part hereof shall not affect the validity or effectiveness of any approvals or other land use approvals. In such cases, such approvals will remain in effect pursuant to their own terms, provisions and conditions.

**21.3 Not a Public Dedication**. Nothing herein contained shall be deemed to be a gift or dedication of the Property, or of the Project, or any portion thereof, to the general public, for the general public, or for any-public use or purpose whatsoever. This proscription does not extend to any portion of the Property that may be dedicated in compliance with any conditions of approval. The Landowner shall have the right to prevent or prohibit the use of the Property, or any portion thereof, including common areas and buildings and improvements located thereon; by any person for any purposes inimical to the operation of a private, integrated Project as contemplated by this Agreement.

**21.4 Severability**. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

**21.5 Construction of Agreement**. The provisions of this Agreement and the Exhibits shall be construed as a whole according to their common meaning and not strictly for or against any Party in order to achieve the objectives and purpose of the Parties. The captions preceding the text of each Article, Section, and Subsection are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neuter genders, or vice versa. All references to "person" shall include, without limitation, any and all corporations, partnerships or other legal entities.

**21.6 Other Necessary Acts**. Each Party covenants, on behalf of itself and its successors, heirs and assigns, to take all actions and do all things, and to execute, with acknowledgment or affidavit if required, any and all further instruments, documents and writings as may be reasonably necessary or proper to achieve the purposes and objectives of this Agreement and to secure the other party the full and complete enjoyment of its rights and privileges hereunder.

**21.7 Applicable Law**. This Agreement, and the rights and obligations of the Parties, shall be construed by and enforced in accordance with the laws of the State of California.

**21.8 Equal Authorship**. This Agreement has been reviewed by legal counsel for both the Landowner and City, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

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**21.9 Time**. Time is of the essence of this Agreement and of each and every term and condition hereof. In particular, the City agrees to act in a timely fashion in accepting, processing, checking and approving all maps, documents, plans, permit applications and any other matters requiring the City's review or approval relating to the Project or Property. Subject to extensions of time by mutual consent in writing, unreasonable delay by either party to perform any term or provision of this Agreement shall constitute a default.

**21.10 Subsequent Projects.** After the effective date of this Agreement, the City may approve other projects that place a burden on the City's infrastructure; however, it is the intent and agreement of the Parties that Landowner's right to build and occupy the Project, as described in this Agreement, shall not be diminished despite the increased burden of future approved development on public facilities.

**21.11 Entire Agreement**. This written Agreement and the Exhibits contain all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement and Exhibits.

**21.12 Form of Agreement: Exhibits**. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement constitutes the entire understanding and agreement of the parties. Said exhibits are identified as follows:

Exhibit A-1: Property legal description
Exhibit A-2: West Railroad Village Subdivision

All attachments to this Agreement, including all exhibits referenced herein, and all subparts thereto, are incorporated herein by this reference.

**21.13 Attorneys' Fees.** If either Party commences any action for the interpretation, enforcement, termination, cancellation or rescission hereof, or for specific performance of the breach hereof, the prevailing party shall be entitled to its reasonable attorneys' fees and litigation expenses and costs, and any judgment, order or decree rendered in such action, suit or proceeding shall include an award thereof. Attorneys' fees under this Section shall include attorneys' fees on any appeal and any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into any judgment on this Agreement.

**21.14 Limitation of Legal Acts.** In no event shall the City, or its officers, agents, attorneys, or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed that the Developer's sole legal remedy for a breach or violation of this Agreement by the City shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

**21.15 Interpretation and Governing State Law.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according

to its fair language and common meaning to achieve the objective and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, both Parties having been represented by counsel in the negotiation and preparation hereof. All legal actions brought to enforce the terms of this Agreement shall be brought and heard in the Superior Court of the State of California, County of Sutter.

**21.16 Successor Statutes Incorporated.** All references to a statute or ordinance, shall incorporate any, or all, successor statute or ordinance enacted to govern the activity now governed by the statute or ordinance, noted herein to the extent, however, that incorporation of such successor statute or ordinance does not adversely affect the benefits and protections granted to the Developer under this Agreement.

**21.17 Counterparts**. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and each of which shall be deemed to be one and the same instrument when each Party signs each such counterpart.

**21.18 Signature Pages**. For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages which, when attached to this Agreement, shall constitute this as one complete Agreement.

**21.19 Days.** Unless otherwise specified in this Agreement, the term "days" means calendar days.

**21.20 Authority.** The Parties hereby represent that the person hereby signing this Agreement on behalf of each respective Party has the authority to bind the Party to the Agreement.

[SIGNATURES ARE ON THE FOLLOWING PAGE]

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

| "City" | "Landowner" |
| --- | --- |
| CITY OF YUBA CITY,<br>A General Law City | Junior S. Thiara,<br>an Individual |
| By:_____ | By:_____ |
| Shon Harris, Mayor | Junior S. Thiara |
| Date:_____ | Date:_____ |

Attest:

_____
City Clerk

Approved as to Form:

_____
Shannon Chaffin, City Attorney

Attachments:

A-1 Property Legal Description

A-2 West Railroad Village Subdivision Map

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## EXHIBIT A-1

## PROPERTY LEGAL DESCRIPTION

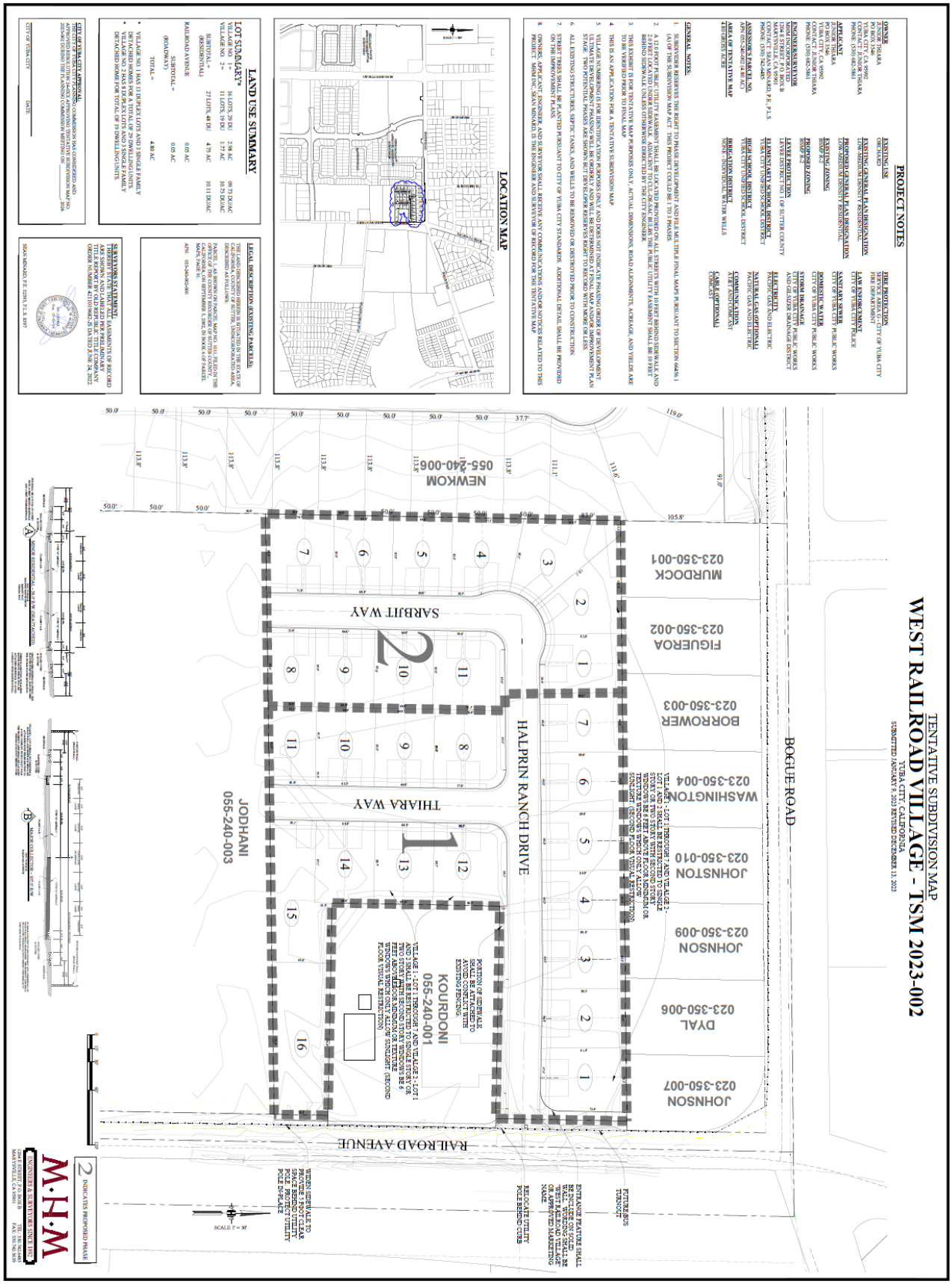
THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SUTTER, UNINCORPORATED AREA, DESCRIBED AS FOLLOWS:

PARCEL 1, AS SHOWN ON PARCEL MAP NO. 1011, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SUTTER COUNTY, CALIFORNIA, ON SEPTEMBER 5, 2002, IN BOOK 6 OF PARCEL MAPS, PAGE 91

PARCEL ONE (APN 055-240-002-000):

# EXHIBIT A-2

## WEST RAILROAD VILLAGE – TENTATIVE SUBDIVISION MAP



# ATTACHMENT 4

The following criterion of development is proposed for West Railroad Ranch located on Railroad Avenue south of Bogue Road. The criteria below is the BSMP Low Density Residential Standard as shown on Table A-1 except for a few minor items. We highlighted the items that are different than BSMP. The Development Standards for West Railroad Ranch are as follows.:

**Development Standards.**

| | |
|---|---|
| **Maximum Density (R-2):** | General Plan Designation (14 units per acre) |
| **Minimum Density (R-2):** | General Plan Designation (6 dwelling per acre) |
| **Minimum Lot Size:** | For lots less than 2,999 square feet lots shall be 2,500 square feet for corner; 2,000 square feet for interior lots, cul-de-sac, and knuckle lots. For lots equal to or greater than 3,000 square feet lots shall be 3,500 square feet for corner; 3,000 square feet for interior lots, cul-de-sac, and knuckle lots. |
| **Minimum Lot Width:** | For lots less than 2,999 square feet lots shall be 40 feet for interior lots and 45 feet for corner lots. For lots equal to or greater than 3,000 square feet lots shall be 50 feet for interior lots and 55 feet for corner lots. (*Lot width measured at the front property line except for lots on cul-de-sacs and knuckles where lot width is measured at the front setback). |
| **Minimum Lot Depth:** | For lots less than 2,999 square feet lots shall be 60 feet. For lots equal to or greater than 3,000 square feet lots shall be 75 feet. (*Lot width measured at the front property line except for lots on cul-de-sacs and knuckles where lot width is measured at the front setback). These refer to average minimum depth. |
| **Maximum Percentage of Lot Coverage:** | In accordance with the Bogue Stewart Master Plan standards. |
| **Maximum Building Height:** | 2 stories not to exceed 45 feet, except as provided in Article 56 of the Yuba City Zoning Regulations. Accessory Dwelling Units (ADU) shall be in accordance with Yuba City Zoning Regulations. Other accessory buildings shall not exceed 15 feet and not exceed one-story. |
| **Minimum Yards:** | **Front** - 15 feet to back of sidewalk, except garages shall be 18.5 feet. Side loading garages can be 10 feet as long as the length of the driveway exceeds 18.5 from the back of sidewalk.<br>**Street Side** – 10 feet to back of sidewalk, except garage entrances shall be 18.5 feet.<br>**Interior Side** – 0 feet (attached) or 5 feet (detached), except fire place and media protrusions shall not less than 3 feet.<br>**Rear** – For lots less than 2,999 square feet lots shall be 5 feet. For lots equal to or greater than 3,000 square feet lots shall be 10 feet. |

| | |
|---|---|
| **Distance Between Buildings on Same Lot:** | For lots less than 2,999 square feet lots shall be 10.0 feet for single story and 10.0 feet for two-story. For lots equal to or greater than 3,000 square feet lots shall be 10.0 feet for single story and 10.0 feet for two-story. |
| **Exterior Lighting** | As provided in Article 58. |
| **Fences, Walls, Hedges, and Intersection Visibility** | As provided in Article 59. |
| **Off-street Parking and Loading** | As provided in Article 61. |
| **Public Improvements** | As provided in Article 62. |
| **Signs:** | As provided in Article 63. |
| **Trash Enclosures** | As provided in Article 64. |

If item is not listed or modified, the criteria shall meet or exceed the Bogue Stewart Master Plan Development Standards and Guidelines for Low-Medium Density Residential Development Standards.

# ATTACHMENT 5

# Environmental Assessment 23-07

*Initial Study and Mitigated Negative Declaration for Tentative Subdivision Map 23-02, West Railroad Village, and a Development Agreement. The proposal is to subdivide a 4.8-acre property into 21 duplex residential lots and six single-family residential lots for a total of 48 new residences.*

Prepared for:

City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

Prepared By:

Denis Cook
Land Use Planning Consultant

and

City of Yuba City
Development Services Department
Planning Division

January 2024

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**CITY OF YUBA CITY**
Development Services Department
Planning Division
1201 Civic Center Blvd. Yuba City, CA 95993 Phone (530) 822-4700

# 1. Introduction

## 1.1. Introduction

This Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared to identify any potential environmental impacts in the City of Yuba City, California (City) from proposed Tentative Subdivision Map (TSM) 23-02, West Railroad Village, and a Development Agreement (collectively "Project"). The subdivision proposes to subdivide a 4.8-acre property into 21 duplex lots and six single-family residential lots, for a total of 48 new residences. The site currently has an orchard on it. The property is located on the west side of Railroad Avenue approximately 200 feet south of Bogue Road and is within the Bogue-Steward Master Plan (BSMP) area. All access to the property is from Railroad Avenue. The Project proposes an internal looped street with two Railroad Avenue connections. The property is subject to the criteria of the Bogue-Stewart Master Plan (BSMP), and it has full City services available to it.

The Development Agreement will extend the life of the tentative subdivision map to 10 years, with the potential for further extensions upon agreement of both parties, in exchange for the developer paying the City a fee of $2,300 per multiple-family residence and $3,200 per single-family residence for future neighborhood park development.

The applicant also proposes several revisions to the BSMP R-2 residential development standards including small reduction in certain driveway lengths and other minor revisions. As these are very minor revisions that are permitted in the specific plan and they are not environmental issues, they are not further discussed in this document.

This subdivision and development agreement is considered a project under the California Environmental Quality Act (CEQA), as the City has discretionary authority over the Project. The Project requires discretionary review by the City of Yuba City Planning Commission and City Council due to the Development Agreement.

This IS/MND has been prepared in conformance with CEQA Guidelines Section 15070. The purpose of the IS/MND is to determine the potential significant impacts associated with the tentative subdivision map over and above the impacts determined by the BSMP EIR and provide an environmental assessment for consideration by the Planning Commission and City Council. In addition, this document is intended to provide the basis for input from public agencies, organizations, and interested members of the public.

## 1.2. Regulatory Information

An Initial Study (IS) is an environmental assessment document prepared by a lead agency to determine if a project may have a significant effect on the environment. In accordance with the California Code of Regulations Title 14 (Chapter 3, §15000 et seq.), commonly referred to as the CEQA Guidelines - Section 15064(a)(1) states an environmental impact report (EIR) must be prepared if there is substantial evidence in light of the whole record that the proposed project under review may have a significant effect on the environment and should be further analyzed to determine mitigation measures or project alternatives

that might avoid or reduce project impacts to less than significant. A negative declaration may be prepared instead; if the lead agency finds that there is no substantial evidence, in light of the whole record that the project may have a significant effect on the environment. A negative declaration is a written statement describing the reasons why a proposed project, not exempt from CEQA pursuant to §15300 et seq. of Article 19 of the Guidelines, would not have a significant effect on the environment and, therefore, why it would not require the preparation of an EIR (CEQA Guidelines Section 15371). According to CEQA Guidelines Section 15070, a negative declaration shall be prepared for a project subject to CEQA when either:

a) The IS shows there is no substantial evidence, in light of the whole record before the agency, that the proposed project may have a significant effect on the environment, or

b) The IS identified potentially significant effects, but:

    a. Revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration and initial study is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur is prepared, and

    b. There is no substantial evidence, in light of the whole record before the agency, that the proposed project as revised may have a significant effect on the environment. If revisions are adopted by the Lead Agency into the proposed project in accordance with the CEQA Guidelines Section 15070(b), a Mitigated Negative Declaration (MND) is prepared.

As permitted by CEQA Guidelines, section 15168(c), this IS/MND relies on and tiers off of the EIR (State Clearinghouse (SCH) # 2017012009) previously prepared and certified for the Bogue-Stuart Master Plan which was adopted as a specific plan in 2019 ("BSMP EIR"). A copy of that EIR is available at the Development Services Department Office in City Hall, 1201 Civic Center Boulevard, Yuba City, and on the City's website.

In addition to the approvals and entitlements granted through the approval of the BSMP, there were also two subdivisions concurrently approved – Newkom Ranch and Kells East Subdivisions, for which the BSMP EIR was prepared at the project level. The analysis of those subdivisions is in greater detail as it relates to land use intensities and related activities. The level of detail of the analyses of all other future discretionary projects within the BSMP is not addressed in the EIR at a project level, but instead at the program level, which is less detailed. That includes this Project. As the EIR was not prepared at the project level for this subdivision, CEQA requires this environmental document. This document is intended to determine whether this subdivision may cause additional impacts not previously addressed in the BSMP EIR.

This review of the TSM 23-02 -West Railroad Village Subdivision, relies on the BSMP EIR information and assumes that all relevant mitigations provided in the BSMP EIR are carried forward and applied to this Project. The primary purpose of this document is to determine if there are any additional impacts caused by this subdivision that was not anticipated in the EIR prepared for the BSMP.

The proposed BSMP is the primary land use, policy, and regulatory document used to guide the overall development within the BSMP area. It establishes a development framework for land use, mobility, utilities and services, resource protection, and implementation to promote the systematic and orderly

development of the plan area. All development projects, including this proposed subdivision, and related activities proposed within the plan area must be consistent with the BSMP.

## 1.3. Document Format

This IS/MND contains four chapters, and one technical appendix. Chapter 1, Introduction, provides an overview of the proposed Project and the CEQA environmental documentation process. Chapter 2, Project Description, provides a detailed description of proposed Project objectives and components. Chapter 3, Impact Analysis, presents the CEQA checklist and environmental analysis for all impact areas, mandatory findings of significance, and feasible measures. If the proposed Project does not have the potential to significantly impact a given issue area, the relevant section provides a brief discussion of the reasons why no impacts are expected. If the proposed Project could have a potentially significant impact on a resource, the issue area discussion provides a description of potential impacts, and appropriate mitigation measures and/or permit requirements that would reduce those impacts to a less than significant level. Chapter 4, List of Preparers, provides a list of key personnel involved in the preparation of the IS/MND.

## 1.4. Purpose of Document

The proposed tentative subdivision map and development agreement will undergo a public review process by the Planning Commission that, if approved, could ultimately result in 48 new residences being established on the property. This public review process is needed to assure that the Project will be compatible with existing or expected neighboring uses as established by the BSMP, and that adequate public facilities are available to serve the Project.

This document has been prepared to satisfy the California Environmental Quality Act (CEQA) (Pub. Res. Code, Section 21000 et seq.) and the State CEQA Guidelines (Title 14 CCR §15000 et seq.). CEQA requires that all state and local government agencies consider the environmental consequences of projects over which they have discretionary authority before acting on those projects.

The initial study is a public document used by the decision-making lead agency to determine whether the Project may have a significant effect on the environment. If the lead agency finds substantial evidence that any aspect of the Project, either individually or cumulatively, may have a significant effect on the environment, regardless of whether the overall effect of the Project is adverse or beneficial, the lead agency is required to use a previously prepared EIR and supplement that EIR or prepare a subsequent EIR to analyze the issues at hand. If the agency finds no substantial evidence that the Project or any of its aspects may cause a significant effect on the environment, a negative declaration shall be prepared. If in the course of the analysis, it is recognized that the Project may have a significant impact on the environment, but that with specific recommended mitigation measures incorporated into the Project, these impacts shall be reduced to less than significant, a mitigated negative declaration shall be prepared.

In reviewing all of the available information for the above referenced Project, the City of Yuba City Planning Division has analyzed the potential environmental impacts created by this Project and a mitigated negative declaration has been prepared.

## 1.5. Intended Uses of this Document

In accordance with CEQA, a good-faith effort has been made during preparation of this IS/MND to contact affected public agencies, organizations, and persons who may have an interest in the proposed Project.

In reviewing the Draft IS/MND, affected and interested parties should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the effects of the proposed Project would be avoided or mitigated.

The Draft IS/ND and associated appendices will be available for review on the City of Yuba City website at http://www.yubacity.net. The Draft IS/MND, BSMP EIR and associated appendixes also will be available for review during regular business hours at the City of Yuba City Development Services Department (1201 Civic Center Boulevard, Yuba City, California 95993). The 20-day review period will commence on January 4, 2024, and end on January 24, 2024, at the conclusion of the Planning Commission hearing.

Written comments on the Draft IS/MND should be sent to the following address:

City of Yuba City
Development Services Department
1201 Civic Center Boulevard
Yuba City, CA 95993
e-mail: developmentservices@yubacity.net
Phone: 530.822.4700

# 2. Project Description

## 2.1. Project Title

Tentative Subdivision Map (TSM) 23-02: West Railroad Village.

## 2.2. Lead Agency Name and Address

City of Yuba City
Development Services Department, Planning Division
1201 Civic Center Blvd.
Yuba City, CA 95993

## 2.3. Contact Person and Phone Number

Doug Libby, AICP
Deputy Director of Development Services
(530) 822-3231
developmentservices@yubacity.net

## 2.4. Project Location

The 4.8 acres are located on the west side of Railroad Avenue approximately 200 feet south of Bogue Road. Assessor's Parcel Number (APN) 055-240-002.

## 2.5. Project Applicant

Junior Thiara
P.O. Box 3546
Yuba City, CA 95992

## 2.6. Property Owner

Junior Thiara
P.O. Box 3546
Yuba City, CA 95992

## 2.7. General Plan Designation

The Project is within the Low-Medium Density Residential (MDR) land use designation, which provides for a density range of six to 14 residences per acre. The proposed Project will be approximately 10 residences per acre.

## 2.8 Specific Plan Designation

Low-Medium Density Residential (MDR) land use designation.

## 2.9 Zoning

The Project is within the Two-Family Residential Zone District combined with the Specific Plan (Bogue-Stewart Master Plan) Zone District (R-2 SP-BSMP).

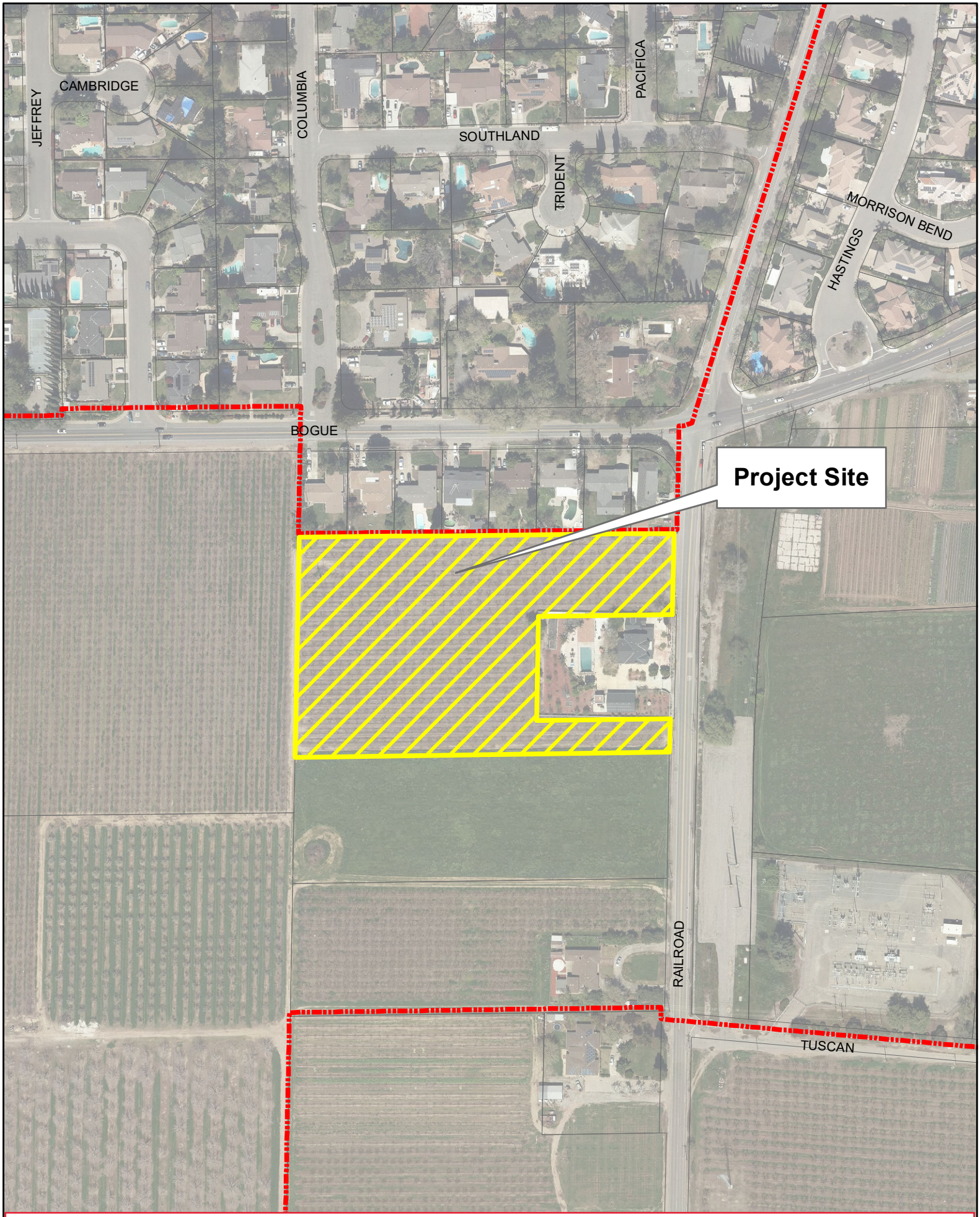



Figure 1: Location Map

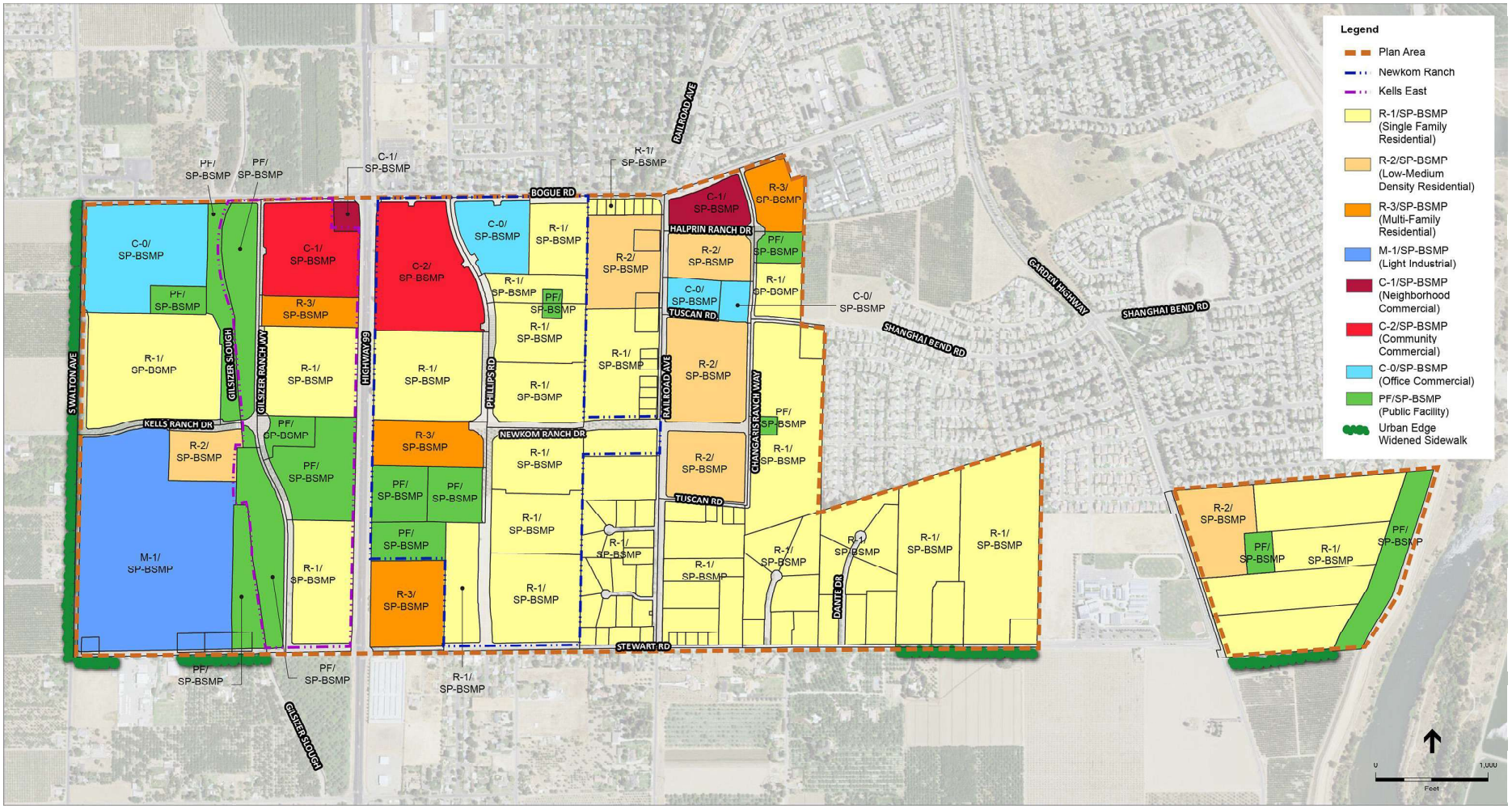
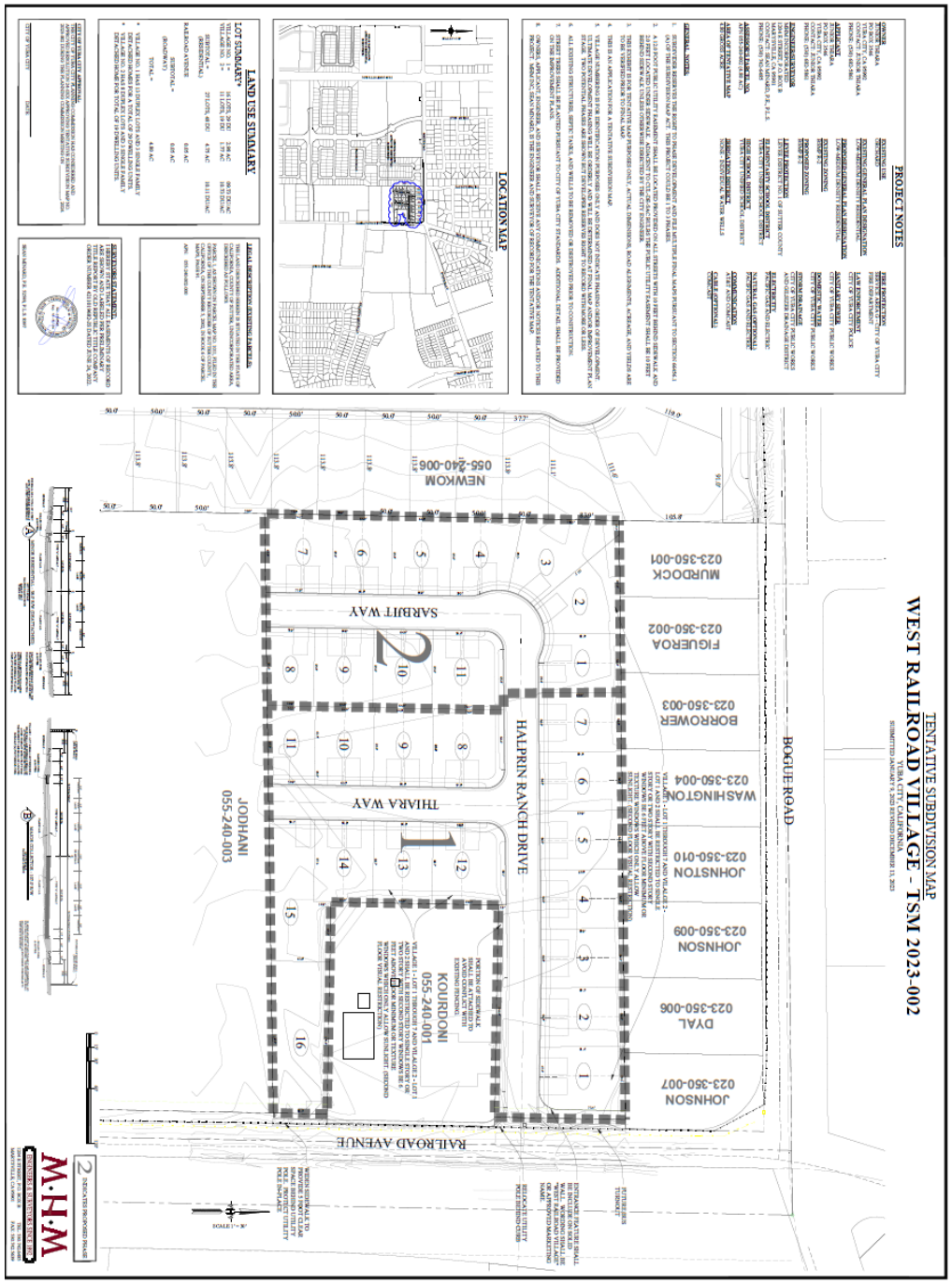



Figure 2: BSMP Zoning Map

**Figure 3: Tentative Subdivision Map 23-02**



## Project Description

Tentative Subdivision Map (TSM) 23-02, West Railroad Village, and a Development Agreement (collectively "Project"). The subdivision proposes to subdivide a 4.8-acre property into 21 duplex residential lots and six single-family residential lots, for a total of 48 new residences. The site, which currently has an orchard on it, is located on the west side of Railroad Avenue approximately 200 feet south of Bogue Roade and is within the Bogue-Steward Master Plan (BSMP) area. All access to the property is from Railroad Avenue. The Project proposes an internal looped street with two Railroad Avenue connections. The property is subject to the criteria of the Bogue-Stewart Master Plan (BSMP), and it has full City services available to it.

The Development Agreement will extend the life of the tentative subdivision map to 10 years, with the potential for additional time extensions upon agreement of both parties, in exchange for the developer paying the City a fee of $2,300 per multiple-family residence and $3,200 per single-family residence for future neighborhood park development.

The applicant also proposes several revisions to the BSMP R-2 residential development standards including small reduction in certain driveway lengths and other minor revisions. As these are very minor revisions that are permitted in the specific plan and they are not environmental issues, they are not further discussed in this document.

## 2.10. Surrounding Land Uses and Setting

**Setting:** The 4.80-acre flat property is currently farmed as an orchard. There are no structures on the property.

| Table 1: Bordering Uses | |
|---|---|
| North: | Eight single-story, single-family residences back-up to the common property line. |
| South: | Agricultural land. |
| East: | This property wraps around a ranchette sized lot with a single-family residence on it, and the subject site has access to Railroad Avenue on both sides of the ranchette lot. |
| West: | Agricultural land |

## 2.11. Other Public Agencies Whose Approval May be Required

Feather River Air Quality Management District, Dust Control Plan, Indirect Source Review.
Central Valley Regional Water Quality Control Board.

## 2.12. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality, etc.?

All geographically relevant Native American tribes were originally notified as part of the BSMP process for which there is a mitigation measure applied to this proposal. They were again timely notified of this Project for which consultation was not requested.

## 2.13 Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this Project, as indicated by the checklist and subsequent discussion on the following pages.

| | | | | | |
|---|---|---|---|---|---|
| | Aesthetics | | Agriculture & Forestry Resources | X | Air Quality |
| X | Biological Resources | X | Cultural Resources | | Energy |
| | Geology/Soils | X | Greenhouse Gas Emissions | X | Hazard & Hazardous Materials |
| | Hydrology/Water Quality | | Land Use Planning | | Mineral Resources |
| X | Noise | | Population/Housing | | Public Services |
| | Recreation | X | Transportation | X | Tribal Cultural Resources |
| X | Utilities/Service Systems | | Wildfire | | 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, that was not previously analyzed and identified in the BSMP EIR, 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 the attached sheets. An ENVIRONMENTAL IMPACT REPORT 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.

Doug Libby
Signature

January 4, 2024
Date

Doug Libby, AICP, Deputy Director of Development Services
Printed Name/Position

## 2.14 Evaluation of Environmental Impacts:

As stated above, this Initial Study relies upon and tiers off of the BSMP EIR, as permitted by CEQA Guidelines, sections 15168(c) and 15162. Therefore, the impact determinations in this Initial Study are in light of the analysis and identification of significant impacts in the BSMP EIR. Accordingly, this Initial Study focuses on whether this project may cause significant impacts that were not identified and or adequately analyzed in the BSMP EIR.

A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

"Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analysis," as described below, may be cross referenced). A Mitigated Negative Declaration also requires preparation and adoption of a Mitigation Monitoring and Reporting Program (MMRP)

Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. In this case, a brief discussion should identify the following:

Earlier Analysis Used. Identify and state where they are available for review.

Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they addressed site-specific conditions for the project.

Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts. Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

Supporting Information Sources:  A source list should be attached, and other sources used, or individuals contacted should be cited in the discussion.

# 3. Environmental Checklist and Impact Evaluation

The following section presents the initial study checklist recommended by the California Environmental Quality Act (CEQA; Appendix G) to determine potential impacts of a project. Explanations of all answers are provided following each question, as necessary.

## 3.1. Aesthetics

Table 3-1: Aesthetics

| Except as provided in Public Resources Code Section 21099, would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| a) Have a substantial adverse effect on a scenic vista? | | | X | |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | | | X | |
| c) In non-urbanized areas substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point. If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality. | | | X | |
| d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area? | | | X | |

### *3.1.1. Environmental Setting/Affected Environment*

Background views are generally considered to be long-range views in excess of 3 to 5 miles from a vantage point. Background views surrounding the project site are limited due to the flat nature of the site and the surrounding urban landscape. Overall, the vast majority of Sutter County is relatively flat, with the Sutter Buttes being the exception. The Sutter Buttes, located approximately 10 miles northwest of the Project site, are visible from much of Yuba City and Sutter County. The Sutter Buttes comprise the long-range views to the northwest and are visible from the much of the City, except in areas where trees or intervening structures block views of the mountain range.

The City's General Plan, more specifically the Community Design Element "establishes policies to ensure the creation of public and private improvements that will maintain and enhance the image, livability, and aesthetics of Yuba City in the years to come."

The following principles and policies are applicable:

- Maintain the identity of Yuba City as a small-town community, commercial hub, and residential community, surrounded by agricultural land and convey, through land uses and design amenities, Yuba City's character and place in the Sacramento Valley.

- Recognizing the livability and beauty of peer communities with highly designed visual landscapes, commit to a focus on the visual landscape of Yuba City.
- Maintain, develop, and enhance connections between existing and planned neighborhoods.
- Create and build upon a structured open space and parks network, centered on two large urban parks and the Feather River Corridor.
- Strive for lush, landscaped public areas marked by extensive tree plantings.
- Design commercial and industrial centers to be visually appealing, to serve both pedestrians and automobiles, and to integrate into the adjacent urban fabric.

The Project is within the Bogue-Stewart Master Plan. Appendix A of the BSMP are the Development Standards and Guidelines. This chapter lays out the Development Standards and Guidelines to provide direction for the planning, design, and review of development within the BSMP area. The intent is to contribute towards the creation of a unified community that is characterized by high quality, diverse, attractive, and functional development.

In addition to the City's General Plan and Bogue-Stewart Master Plan, the City provides citywide Design Guidelines. As the BSMP has specific design standards for all development within its boundaries, the citywide Design Guidelines are not utilized for this Project.

### *3.1.2. Federal Regulatory Setting*

Federal regulations relating to aesthetics include Organic Administration Act (1897), Multiple Use – Sustained Yield Act (1960), Wilderness Act (1964), Federal Lands Policy and Management Act (1976), Wild and Scenic Rivers Act. The proposed Project is not subject to these regulations since there are no federally designated lands or rivers in the vicinity.

### *3.1.3. State Regulatory Setting*

The California State Scenic Highway Program was created by the California Legislature in 1963 to preserve and protect scenic highway corridors from change which would diminish the aesthetic value of lands adjacent to highways. The state laws governing the Scenic Highway Program are found in the Streets and Highways Code, Section 260 et seq. The State Scenic Highway System includes a list of highways that are either eligible for designation as scenic highways or have been so designated. These highways are identified in Section 263 of the Streets and Highways Code. As there are no official scenic highways in the vicinity of this proposal so it is not further analyzed in this document.

California Building Code Title 24 Outdoor Lighting Standards: The requirements vary according to which "Lighting Zone" the equipment is in. The Standards contain lighting power allowances for newly installed equipment and specific alterations that are dependent on which Lighting Zone the Project is located in. Existing outdoor lighting systems are not required to meet these lighting power allowances. However, alterations that increase the connected load, or replace more than 50 percent of the existing luminaires, for each outdoor lighting application that is regulated by the Standards, must meet the lighting power allowances for newly installed equipment.

An important part of the Standards is to base the lighting power that is allowed on how bright the surrounding conditions are. The eyes adapt to darker surrounding conditions, and less light is needed to properly see; when the surrounding conditions get brighter, more light is needed to see. The least power is allowed in Lighting Zone 1 and increasingly more power is allowed in Lighting Zones 2, 3, and 4. By

default, government designated parks, recreation areas and wildlife preserves are Lighting Zone 1; rural areas are Lighting Zone 2; and urban areas are Lighting Zone 3. Lighting Zone 4 is a special use district that may be adopted by a local government. The proposed Project is located in an urban area; thereby, it is in Lighting Zone 3.

#### *3.1.4. Impact Assessment/Environmental Consequences:*

*a) Have a substantial adverse effect on a scenic vista?*

There are no designated scenic areas within the vicinity, so there would not be impacts on a designated scenic area.

The EIR for the BSMP noted that the developments within the BSMP would introduce urban development to the area which would substantially alter scenic vistas. Per the BSMP EIR the impact to scenic vistas was considered significant and unavoidable. Because there are no feasible mitigation measures to reduce this impact, overriding considerations were made for the significant impacts on scenic resources.

As this Project is consistent with the land use pattern and design called for in the BSMP, this Project will not add to those impacts identified in the EIR. As such this subdivision will not create any additional significant impacts on scenic resources over what has already been identified in the BSMP EIR. Therefore, the impacts on scenic resources above what was anticipated in the BSMP EIR will be less than significant.

*b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?*

Per the BSMP EIR, new development would cause the loss of orchard land, thereby substantially changing the visual character of the area, which would result in a significant impact. Because there are no feasible mitigation measures to reduce this impact, overriding considerations were made for the significant impacts regarding the reduction in scenic values.

As this Project is consistent with the land use pattern and design called for in the BSMP, this Project will not add to those impacts identified in the BSMP EIR. As such this subdivision will not create any additional significant impacts on scenic resources over what has already been identified in the BSMP EIR. Therefore, the impacts on scenic resources above what was anticipated in the BSMP EIR will be less than significant.

*c) In non-urbanized areas, substantially degrade the existing visual character of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point. If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality.*

Same as a) and b), above.

*d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.*

The area is generally dark at night with most existing sources of light from rural residential uses. Per the BSMP EIR, development within the Plan area would create new sources of light and glare from streetlights, vehicle headlights, landscape lighting and residential lighting. Because this would permanently increase

nighttime lighting, and no feasible mitigation measures are available to preserve nighttime view while still allowing for urban development, this impact would be significant and unavoidable.

As this Project is consistent with the land use pattern and design called for in the BSMP, this Project will not add to those impacts identified in the EIR. As such this subdivision will not create any additional significant impacts on scenic resources over what has already been identified in the BSMP EIR. Therefore, the impacts on scenic resources above what was anticipated in the BSMP EIR will be less than significant.

#### *3.1.5. BSMP Mitigation Measures for Scenic Resources from the BSMP EIR*

None Available.

## 3.2. 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 prepared (1997) by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

Table 3-2: Agricultural and Forestry Resources

| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| 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? | | | X | |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | | | | X |
| c) Conflict with existing zoning for, or cause rezoning of, forestland (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))? | | | | X |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | | | | X |
| 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? | | | X | |

### *3.2.1. Environmental Setting/Affected Environment*

Sutter County is located within the northern portion of California's Central Valley in the area known as the Sacramento Valley. It contains some of the richest soils in the State. These soils, combined with abundant surface and subsurface water supplies and a long, warm growing season, make Sutter County's agricultural resources very productive. Sutter County is one of California's leading agricultural counties, with 83 percent of the County's total land acreage currently being used for agricultural purposes. However, while Sutter County provides rich agricultural opportunities, the subject site is within an urban area and has been designated for urban uses for many years.

### *3.2.2. Federal Regulatory Setting*

Farmland Protection Policy Act: The Natural Resources Conservation Service (NRCS), a federal agency within the U.S. Department of Agriculture (USDA), is the agency primarily responsible for implementation of the Farmland Protection Policy Act (FPPA). The FPPA was enacted after the 1981 Congressional report, Compact Cities: Energy-Saving Strategies for the Eighties indicated that a great deal of urban sprawl was the result of programs funded by the federal government. The purpose of the FPPA is to minimize federal programs' contribution to the conversion of farmland to non-agricultural uses by ensuring that federal programs are administered in a manner that is compatible with state, local, and private programs designed to protect farmland. Federal agencies are required to develop and review their policies and procures to implement the FPPA every two years (USDA-NRCS, 2011).

2014 Farm Bill: The Agricultural Act of 2014 (the Act), also known as the 2014 Farm Bill, was signed by President Obama on Feb. 7, 2014. The Act repeals certain programs, continues some programs with modifications, and authorizes several new programs administered by the Farm Service Agency (FSA). Most of these programs are authorized and funded through 2018.

The Farm Bill builds on historic economic gains in rural America over the past five years, while achieving meaningful reform and billions of dollars in savings for the taxpayer. It allows USDA to continue record accomplishments on behalf of the American people, while providing new opportunity and creating jobs across rural America. Additionally, it enables the USDA to further expand markets for agricultural products at home and abroad, strengthen conservation efforts, create new opportunities for local and regional food systems and grow the bio-based economy. It provides a dependable safety net for America's farmers, ranchers and growers and maintains important agricultural research, and ensure access to safe and nutritious food for all Americans.

Forestry Resources: Federal regulations regarding forestry resources are not relevant to the proposed Project because no forestry resources exist on the Project site or in the vicinity.

### *3.2.3. State Regulatory Setting*

California Environmental Quality Act (CEQA) Definition of Agricultural Lands: Public Resources Code Section 21060.1 defines "agricultural land" for the purposes of assessing environmental impacts using the Farmland Mapping & Monitoring Program (FMMP). The FMMP was established in 1982 to assess the location, quality, and quantity of agricultural lands and the conversion of these lands. The FMMP provides analysis of agricultural land use and land use changes throughout California.

California Department of Conservation, Division of Land Resource Protection: The California Department of Conservation (DOC) applies the NRCS soil classifications to identify agricultural lands, and these agricultural designations are used in planning for the present and future of California's agricultural land

resources. Pursuant to the DOC's FMMP, these designated agricultural lands are included in the Important Farmland Maps (IFM) used in planning for the present and future of California's agricultural land resources. The FMMP was established in 1982 to assess the location, quality, and quantity of agricultural lands and the conversion of these lands. The FMMP provides analysis of agricultural land use and land use changes throughout California. The DOC has a minimum mapping unit of 10 acres, with parcels that are smaller than 10 acres being absorbed into the surrounding classifications.

The list below provides a comprehensive description of all the categories mapped by the DOC. Collectively, lands classified as Prime Farmland, Farmland of Statewide Importance, and Unique Farmland is referred to as Farmland.

- *Prime Farmland.* Farmland that has the best combination of physical and chemical features able to sustain long-term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.
- *Farmland of Statewide Importance.* Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.
- *Unique Farmland.* Farmland of lesser quality soils used for the production of the State's leading agricultural crops. This land is usually irrigated but may include non-irrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior to the mapping date.
- *Farmland of Local Importance.* Land of importance to the local agricultural economy as determined by each county's board of supervisors and a local advisory committee.
- *Grazing Land.* Land on which the existing vegetation is suited to the grazing of livestock. This category was developed in cooperation with the California Cattlemen's Association, University of California Cooperative Extension, and other groups interested in the extent of grazing activities. The minimum mapping unit for Grazing Land is 40 acres.
- *Urban and Built-up Land.* Land occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. This land is used for residential, industrial, commercial, institutional, public administrative purposes, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes.
- *Other Land.* Land not included in any other mapping category. Common examples include low density rural developments; brush, timber, wetland, and riparian areas not suitable for livestock grazing; confined livestock, poultry, or aquaculture facilities; strip mines and borrow pits; and water bodies smaller than 40 acres. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as Other Land.

California Land Conservation Act (Williamson Act): The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, is promulgated in California Government Code Section 51200-51297.4, and therefore is applicable only to specific land parcels within the State of California. The Williamson Act enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space uses in return for reduced property tax assessments. Private land within locally designated agricultural preserve areas is eligible for enrollment under Williamson Act contracts. However, an agricultural preserve must consist of no less

than 100 acres. In order to meet this requirement two or more parcels may be combined if they are contiguous, or if they are in common ownership.

The Williamson Act program is administered by the Department of Conservation (DOC), in conjunction with local governments, which administer the individual contract arrangements with landowners. The landowner commits the parcel to a 10-year period, or a 20-year period for property restricted by a Farmland Security Zone Contract, wherein no conversion out of agricultural use is permitted. Each year the contract automatically renews unless a notice of non-renewal or cancellation is filed. In return, the land is taxed at a rate based on the actual use of the land for agricultural purposes, as opposed to its unrestricted market value. An application for immediate cancellation can also be requested by the landowner, provided that the proposed immediate cancellation application is consistent with the cancellation criteria stated in the California Land Conservation Act and those adopted by the affected county or city. Non-renewal or immediate cancellation does not change the zoning of the property. Participation in the Williamson Act program is dependent on county adoption and implementation of the program and is voluntary for landowners.

Farmland Security Zone Act: The Farmland Security Zone Act is similar to the Williamson Act and was passed by the California State Legislature in 1999 to ensure that long-term farmland preservation is part of public policy. Farmland Security Zone Act contracts are sometimes referred to as "Super Williamson Act Contracts." Under the provisions of this act, a landowner already under a Williamson Act contract can apply for Farmland Security Zone status by entering into a contract with the county. Farmland Security Zone classification automatically renews each year for an additional 20 years. In return for a further 35% reduction in the taxable value of land and growing improvements (in addition to Williamson Act tax benefits), the owner of the property promises not to develop the property into nonagricultural uses.

Forestry Resources: State regulations regarding forestry resources are not relevant to the proposed Project because no forestry resources exist on the project site or in the vicinity.

#### *3.2.4. Impact Assessment/Environmental Consequences:*

*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?*

The 2018 Department of Conservation Important Farmland Map for Sutter County identifies the 4.8-acre Project site as "Unique Farmland." The proposed Project site is currently utilized as an orchard. The BSMP identifies this area for urban development – specifically for medium density residential development, as is also provided in the General Plan. The EIR for the BSMP considered the impacts on agricultural land to be significant and unavoidable but made overriding considerations for the significant impacts. As the Project proposal is consistent with the BSMP, and the BSMP EIR considered this land to be completely removed from agricultural use, this subdivision will not create any additional significant impacts over what has already been identified regarding the loss of agricultural land. Therefore, the impact on agricultural land above what was anticipated in the BSMP EIR will be less than significant.

*b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?*

The proposed Project site and surrounding area is currently zoned for urban type uses and is not under a Williamson Act contract. There will therefore be no impact related to a Williamson Act contract.

*c) Conflict with existing zoning for, or cause rezoning of, forestland (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4256), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?*

The proposed Project is located in the Sacramento Valley in a relatively flat area that is being utilized for agriculture. There is no timberland located on the Project site or within the vicinity of the Project. There will be no impact on existing zoning of forestland and the proposed Project will not cause the rezoning of any forestlands.

*d) Result in the loss of forestland or conversion of forest land to non-forest use?*

There is no forested land on the Project site or within the vicinity of the Project; therefore, there will be no impact on forest land.

*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?*

The proposed Project is currently utilized for agriculture and this Project will cause the land to be converted from agricultural use to urban use. The site is within the BSMP, designated for urban development. See Part a) above for discussion on the loss of agricultural land. There are no forestlands on the Project site or in the vicinity.

#### *3.2.5. BSMP Mitigation Measures for Agricultural and Forestry Resources from the BSMP EIR*

None Available.

## 3.3. Air Quality

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.

Table 3-3: Air Quality

| Would the project? | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | | X | | |
| b) 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? | | X | | |
| c) Expose sensitive receptors to substantial pollutant concentrations? | | | X | |
| d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people? | | | X | |

### *3.3.1. Environmental Setting/Affected Environment*

Yuba City is located within the Sacramento Valley Air Basin (SVAB), which consists of the northern half of the Central Valley and approximates the drainage basin for the Sacramento River and its tributaries. The SVAB is bounded on the west by the Coast Range, on the north by the Cascade Range, on the east by the Sierra Nevada, and on the south by the San Joaquin Valley Air Basin. The intervening terrain is flat, and approximately 70 feet above sea level. The SVAB consists of the counties of Butte, Colusa, Glenn, Sacramento, Shasta, Sutter, Tehama, Yolo, and Yuba and portions of Placer and Solano Counties.

Hot dry summers and mild rainy winters characterize the Mediterranean climate of the Sacramento Valley. The climate of the SVAB is dominated by the strength and position of the semi-permanent high-pressure cell over the Pacific Ocean north of Hawaii. In summer, when the high-pressure cell is strongest and farthest north, temperatures are high and humidity is low, although the incursion of the sea breeze into the Central Valley helps moderate the summer heat. In winter, when the high-pressure cell is weakest and farthest south, conditions are characterized by occasional rainstorms interspersed with stagnant and sometimes foggy weather. Throughout the year, daily temperatures may range from summer highs often exceeding 100 degrees Fahrenheit and winter lows occasionally below freezing. Average annual rainfall is about 20 inches with snowfall being very rare. The prevailing winds are moderate in strength and vary from moist clean breezes from the south to dry land flows from the north.

In addition to prevailing wind patterns that control the rate of dispersion of local pollutant emissions, the region experiences two types of inversions that affect the vertical depth of the atmosphere through which pollutants can be mixed. In the warmer months in the SVAB (May through October), sinking air forms a "lid" over the region. These subsidence inversions contribute to summer photochemical smog problems by confining pollution to a shallow layer near the ground. These warmer months are characterized by stagnant morning air or light winds with the delta sea breeze arriving in the afternoon out of the southwest. Usually, the evening breeze transports the airborne pollutants to the north and out of the SVAB. During about half of the day from July to September, however, a phenomenon called the “Schultz Eddy” prevents this from occurring. Instead of allowing the prevailing wind patterns to move north carrying the pollutants out of the valley, the Schultz Eddy causes the wind pattern to circle back south. This phenomenon exacerbates the pollution levels in the area and increases the likelihood of violating federal or State standards. The Schultz Eddy normally dissipates around noon when the Delta sea breeze begins. In the second type of inversion, the mountains surrounding the SVAB create a barrier to airflow, which can trap air pollutants in the valley. The highest frequency of air stagnation occurs in the autumn and early winter when large high-pressure cells lie over the valley. The air near the ground cools by radiative processes, while the air aloft remains warm. The lack of surface wind during these periods and the reduced vertical flow caused by less surface heating reduces the influx of outside air and allows air pollutants to become concentrated in a stable volume of air. These inversions typically occur during winter nights and can cause localized air pollution "hot spots" near emission sources because of poor dispersion. The surface concentrations of pollutants are highest when these conditions are combined with smoke from agricultural burning or when temperature inversions trap cool air and pollutants near the ground. Although these subsidence and radiative inversions are present throughout much of the year, they are much less dominant during spring and fall, and the air quality during these seasons is generally good.”

Local Climate: The climate of Sutter County is subject to hot dry summers and mild rainy winters, which characterize the Mediterranean climate of the SVAB. Summer temperatures average approximately 90 degrees Fahrenheit during the day and 50 degrees Fahrenheit at night. Winter daytime temperatures average in the low 50s and nighttime temperatures are mainly in the upper 30s. During summer, prevailing

winds are from the south. This is primarily because of the north-south orientation of the valley and the location of the Carquinez Straits, a sea-level gap in the coast range that is southwest of Sutter County.

Criteria Air Pollutants: Criteria air pollutants are a group of pollutants for which federal or State regulatory agencies have adopted ambient air quality standards. Criteria air pollutants are classified in each air basin, county, or in some cases, within a specific urbanized area. The classification is determined by comparing actual monitoring data with State and federal standards. If a pollutant concentration is lower than the standard, the area is classified as "attainment" for that pollutant. If an area exceeds the standard, the area is classified as "non-attainment" for that pollutant. If there is not enough data available to determine whether the standard is exceeded in an area, the area is designated "unclassified."

Ambient Air Quality Standards: Both the federal and State government have established ambient air quality standards for outdoor concentrations of various pollutants in order to protect public health. The federal and State ambient air quality standards have been set at levels whose concentrations could be generally harmful to human health and welfare and to protect the most sensitive persons from experiencing health impacts with a margin of safety. Applicable ambient air quality standards are identified later in this section. The air pollutants for which federal and State standards have been promulgated and which are most relevant to air quality planning and regulation in the air basins include ozone, carbon monoxide, nitrogen oxides, suspended particulate matter, sulfur dioxide, and lead. In addition, toxic air contaminants are of concern in Sutter County. Each of these pollutants is briefly described below.

Ozone (O3): is a gas that is formed when reactive organic gases (ROGs) and nitrogen oxides (NOX), both byproducts of internal combustion engine exhaust and other processes undergo slow photochemical reactions in the presence of sunlight. Ozone concentrations are generally highest during the summer months when direct sunlight, light wind, and warm temperature conditions are favorable to the formation of this pollutant.

Carbon Monoxide (CO): is a colorless, odorless gas produced by the incomplete combustion of fuels. CO concentrations tend to be the highest during the winter morning, with little to no wind, when surface-based inversions trap the pollutant at ground levels. Because CO is emitted directly from internal combustion engines, unlike ozone, motor vehicles operating at slow speeds are the primary source of CO in the SVAB. The highest ambient CO concentrations are generally found near congested transportation corridors and intersections.

Nitrogen Oxides (NOX): is the generic term for a group of highly reactive gases, all of which contain nitrogen and oxygen in varying amounts. Many of the nitrogen oxides are colorless and odorless. However, one common pollutant, nitrogen dioxide (NO2) along with particles in the air can often be seen as a reddish-brown layer over many urban areas. Nitrogen oxides form when fuel is burned at high temperatures, as in a combustion process. The primary manmade sources of NOX are motor vehicles, electric utilities, and other industrial, commercial, and residential sources that burn fuels.

Nitrogen oxides can also be formed naturally.

Respirable Particulate Matter (PM10) and Fine Particulate Matter (PM2.5): consist of extremely small, suspended particles or droplets 10 microns and 2.5 microns or smaller in diameter. Some sources of suspended particulate matter, like pollen and windstorms, occur naturally. However, in populated areas, most fine suspended particulate matter is caused by road dust, diesel soot, and combustion products, abrasion of tires and brakes, and construction activities.

Sulfur Dioxide (SO2): is a colorless, extremely irritating gas or liquid. It enters the atmosphere as a pollutant mainly as a result of the burning of high sulfur-content fuel oils and coal, and from chemical processes occurring at chemical plants and refineries.

Lead: occurs in the atmosphere as particulate matter. The combustion of leaded gasoline is the primary source of airborne lead. Since the use of leaded gasoline is no longer permitted for on-road motor vehicles, lead is not a pollutant of concern in the SVAB.

Toxic Air Contaminants (TACs): are known to be highly hazardous to health, even in small quantities. TACs are airborne substances capable of causing short-term (acute) and/or long-term (chronic or carcinogenic) adverse human health effects (i.e., injury or illness). TACs can be emitted from a variety of common sources, including gasoline stations, automobiles, dry cleaners, industrial operations, and painting operations.

TAC impacts are assessed using a maximum individual cancer risk (MICR) that estimates the probability of a potential maximally exposed individual (MEI) contracting cancer as a result of sustained exposure to toxic air contaminants over a constant period of 24 hours per day for 70 years for residential receptor locations. The CARB and local air districts have determined that any stationary source posing an incremental cancer risk to the general population (above background risk levels) equal to or greater than 10 people out of 1 million to be excessive. For stationary sources, if the incremental risk of exposure to project-related TAC emissions meets or exceeds the threshold of 10 excess cancer cases per 1 million people, the CARB and local air district require the installation of best available control technology (BACT) or maximum available control technology (MACT) to reduce the risk threshold. To assess risk from ambient air concentrations, the CARB has conducted studies to determine the total cancer inhalation risk to individuals due to outdoor toxic pollutant levels. The CARB has conducted studies to determine the total cancer inhalation risk to individuals due to outdoor toxic pollutant levels. According to the map prepared by the CARB showing the estimated inhalation cancer risk for TACs in the State of California, Sutter County has an existing estimated risk that is between 50 and 500 cancer cases per 1 million people. A significant portion of Sutter County is within the 100 to 250 cancer cases per 1 million people range. There is a higher risk around Yuba City where the cancer risk is as high as 500 cases per 1 million people. There are only very small portions of the County where the cancer risk is between 50 and 100 cases. This represents the lifetime risk that between 50 and 500 people in 1 million may contract cancer from inhalation of toxic compounds at current ambient concentrations under an MEI scenario.

### *3.3.2. Federal Regulatory Setting*

Clean Air Act: The federal Clean Air Act of 1970 (as amended in 1990) required the U.S. Environmental Protection Agency (EPA) to develop standards for pollutants considered harmful to public health or the environment. Two types of National Ambient Air Quality Standards (NAAQS) were established. Primary standards protect public health, while secondary standards protect public welfare, by including protection against decreased visibility, and damage to animals, crops, landscaping and vegetation, or buildings. NAAQS have been established for six “criteria” pollutants: carbon monoxide (CO), nitrogen dioxide (NO2), sulfur dioxide (SO2), ozone (O3), particulate matter (PM10 and PM2.5), and lead (Pb).

### *3.3.3. State Regulatory Setting*

California Air Resources Board: The California Air Resources Board (CARB) is the state agency responsible for implementing the federal and state Clean Air Acts. CARB has established California Ambient Air Quality Standards (CAAQS), which include all criteria pollutants established by the NAAQS, but with additional

regulations for Visibility Reducing Particles, sulfates, hydrogen sulfide (H2S), and vinyl chloride. The proposed Project is located within the Sacramento Valley Air Basin, which includes Butte, Colusa, Glenn, Tehama, Shasta, Yolo, Sacramento, Yuba Sutter and portions of Placer, El Dorado and Solano counties. Air basins are classified as attainment, nonattainment, or unclassified. The FRAQMD is comprised Sutter and Yuba Counties. Attainment is achieved when monitored ambient air quality data is in compliance with the standards for a specified pollutant. Non-compliance with an established standard will result in a nonattainment designation and an unclassified designation indicates insufficient data is available to determine compliance for that pollutant.

California Clean Air Act: The CCAA requires that all air districts in the state endeavor to achieve and maintain CAAQS for Ozone, CO, SO2, and NO2 by the earliest practical date. The CCAA specifies that districts focus particular attention on reducing the emissions from transportation and area-wide emission sources, and the act provides districts with authority to regulate indirect sources. Each district plan is required to either (1) achieve a five percent annual reduction, averaged over consecutive 3-year periods, in district-wide emissions of each non-attainment pollutant or its precursors, or (2) to provide for implementation of all feasible measures to reduce emissions. Any planning effort for air quality attainment would thus need to consider both state and federal planning requirements.

CARB Portable Equipment Registration Program: This program was designed to allow owners and operators of portable engines and other common construction or farming equipment to register their equipment under a statewide program so they may operate it statewide without the need to obtain a permit from the local air district.

U.S. EPA/CARB Off-Road Mobile Sources Emission Reduction Program: The California Clean Air Act (CCAA) requires CARB to achieve a maximum degree of emissions reductions from off-road mobile sources to attain State Ambient Air Quality Standards (SAAQS); off- road mobile sources include most construction equipment. Tier 1 standards for large compression-ignition engines used in off-road mobile sources went into effect in California in 1996. These standards, along with ongoing rulemaking, address emissions of nitrogen oxides (NOX) and toxic particulate matter from diesel engines. CARB is currently developing a control measure to reduce diesel PM and NOX emissions from existing off-road diesel equipment throughout the state.

California Global Warming Solutions Act: Established in 2006, Assembly Bill 32 (AB 32) requires that California's GHG emissions be reduced to 1990 levels by the year 2020. This will be implemented through a statewide cap on GHG emissions, which will be phased in beginning in 2012. AB 32 requires CARB to develop regulations and a mandatory reporting system to monitor global warming emissions level.

### *3.3.4. Regional Regulatory Setting*

Feather River Air Quality Management District (FRAQMD): The FRAQMD is a bi-county district formed in 1991 to administer local, state, and federal air quality management programs for Yuba and Sutter Counties within the Sacramento Valley Air Basin. The goal of the FRAQMD is to improve air quality in the region through monitoring, evaluation, education and implementing control measures to reduce emissions from stationary sources, permitting and inspection of pollution sources, enforcement of air quality regulations and by supporting and implementing measures to reduce emissions from motor vehicles.

The FRAQMD adopted its Indirect Source Review guidelines document for assessment and mitigation of air quality impacts under CEQA in 1998. The guide contains criteria and thresholds for determining whether a project may have a significant adverse impact on air quality, and methods available to mitigate impacts on air quality. FRAQMD updated its Indirect Source Review Guidelines to reflect the most recent

methods recommended to evaluate air quality impacts and mitigation measures for land use development projects in June 2010. This analysis uses guidance and thresholds of significance from the 2010 FRAQMD Indirect Source Review Guidelines to evaluate the proposed project's air quality impacts.

According to FRAQMD's 2010 Indirect Source Review Guidelines, a project would be considered to have a significant impact on air quality if it would:

- Generate daily construction or operational emissions that would exceed 25 pounds per day for reactive organic gases (ROG), 25 pounds per day for oxides of nitrogen (NOX), or 80 pounds per day for PM10; or generate annual construction or operational emissions of ROG or NOX that exceed 4.5 tons per year.

Northern Sacramento Valley Planning Area 2015 Air Quality Attainment Plan: As specified in the California Clean Air Act of 1988 (CCAA), Chapters 1568-1588, it is the responsibility of each air district in California to attain and maintain the state's ambient air quality standards. The CCAA requires that an Attainment Plan be developed by all nonattainment districts for O3, CO, SOx, and NOx that are either receptors or contributors of transported air pollutants. The purpose of the Northern Sacramento Valley Planning Area 2015 Triennial Air Quality Attainment Plan (TAQAP) is to comply with the requirements of the CCAA as implemented through the California Health and Safety Code. Districts in the NSVPA are required to update the Plan every three years. The TAQAP is formatted to reflect the 1990 baseline emissions year with a planning horizon of 2020. The Health and Safety Code, sections 40910 and 40913, require the Districts to achieve state standards by the earliest practicable date to protect the public health, particularly that of children, the elderly, and people with respiratory illness.

Health and Safety Code Section 41503(b): Requires that control measures for the same emission sources are uniform throughout the planning area to the extent that is feasible. To meet this requirement, the NSVPA has coordinated the development of an Attainment Plan and has set up a specific rule adoption protocol. The protocol was established by the Technical Advisory Committee of the Sacramento Valley Basin-wide Air Pollution Control Council and the Sacramento Valley Air Quality Engineering and Enforcement Professionals, which allow the Districts in the Basin to act and work as a united group with the CARB as well as with industry in the rule adoption process. Section 40912 of the Health and Safety Code states that each District responsible for, or affected by, air pollutant transport shall provide for attainment and maintenance of the state and federal standards in both upwind and downwind Districts. This section also states that each downwind District's Plan shall contain sufficient measures to reduce emissions originating in each District to below levels which violate state ambient air quality standards, assuming the absence of transport contribution

Construction Generated Emissions of Criteria Air Pollutants: The District recommends the following best management practices:

- Implement the Fugitive Dust Control Plan.
- Construction equipment exhaust emissions shall not exceed FRAQMD Regulation III, Rule 3.0,
- Visible Emissions limitations (40 percent opacity or Ringelmann 2.0).
- The contractor shall be responsible to ensure that all construction equipment is properly tuned and maintained prior to and for the duration of onsite operation.
- Limiting idling time to 5 minutes – saves fuel and reduces emissions.
- Utilize existing power sources or clean fuel generators rather than temporary power generators.

- Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
- Portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, may require California Air Resources Board (ARB) Portable Equipment Registration with the State or a local district permit. The owner/operator shall be responsible for arranging appropriate consultations with the ARB or the District to determine registration and permitting requirements prior to equipment operation at the site.

### *3.3.5. Impact Assessment/Environmental Consequences:*

*a) Conflict with or obstruct implementation of the applicable air quality plan?*

Development of the site will include site grading and construction of 21 duplexes and six single-family residences. Per the EIR prepared for the BSMP, development of the proposed BSMP area would result in emissions of ROG, NOx and PM10 that would exceed the FRAQMD significance thresholds. Consequently, construction of any of the land uses consistent with the BSMP would result in a significant impact.

Over the long-term, the EIR states that the BSMP area would result in an increase in emissions primarily due to Project-related motor vehicle trips and on-site use of energy sources (e.g., natural gas combustion for space and water heating, landscape maintenance), and use of consumer products such as hairsprays, deodorants, cleaning products). Based on the estimates for the developed BSMP's area, criteria pollutant contribution to regional air quality would exceed the significance thresholds specified by the FRAQMD and would be significant.

Implementation of the mitigation measures that are provided below would reduce the predicted level of emissions for construction of the BSMP. Although these mitigation measures would reduce the proposed BSMP's emissions of ROG, NOx and PM10, these mitigation measures would not reduce operational emissions to below the FRAQMD's significance thresholds. Therefore, operation of the BSMP would generate emissions of ROG, NOx and PM10 that would exceed the FRAQMD significance thresholds and result in a significant and unavoidable impact for which overriding considerations were made. The proposed West Railroad Village Subdivision is consistent with the land use pattern and is within the residential density range anticipated by the BSMP. As such, the Project will not generate any significant impacts above what was anticipated by the BSMP EIR, provided the appropriate mitigations from the BSMP EIR are applied to the subdivision.

*b) 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)?*

The BSMP EIR states that the development within the BSMP would result in an increase in some of the criteria pollutants. The six criteria pollutants are ozone (O3), carbon monoxide (CO), nitrogen dioxide (NO2), sulfur dioxide (SO2), particulate matter, and lead. The incremental build-out of the proposed BSMP project, even with the implementation of various mitigation measures, would result in emissions of some criteria pollutants that would exceed the significance thresholds specified by the FRAQMD, creating significant impacts for which overriding considerations where made. The proposed West Railroad Village

Subdivision is consistent with the land use pattern and residential density anticipated by the BSMP. As such the Project is not expected to generate any significant impacts above what was anticipated by the BSMP EIR, provided the appropriate mitigations from the BSMP EIR are applied to the subdivision.

*c) Expose sensitive receptors to substantial pollutant concentrations?*

The FRAQMD defines sensitive receptors as: facilities that house or attract children, the elderly, and people with illnesses, or others who are especially sensitive to the effects of air pollutants. FRAQMD states that if a project is located within 1,000 feet of a sensitive receptor location, the impact of diesel particulate matter shall be evaluated. According to the FRAQMD's Indirect Source Review Guidelines, "Construction activity can result in emissions of particulate matter from the diesel exhaust (diesel PM) of construction equipment. This Project is not located within 1,000 feet of the two schools in the vicinity, Riverbend Middle School and Grace Christian Academy, so the impact on sensitive receptors will be less than significant.

*d) Result in other emissions such as those leading to odors adversely affecting a substantial number of people?*

The proposed BSMP does not permit uses in residential areas that have been identified by FRAQMD as potential sources of objectionable odors. In addition, the BSMP area is not located within one mile of any facilities or uses known to generate objectionable odors. Diesel equipment used during construction can produce odorous exhaust, but equipment use in any one area of the BSMP site would be temporary and potential odors would not affect a substantial number of people. Therefore, construction and operation of the proposed subdivision would not generate objectionable odors, resulting in impacts that are less than significant.

### *3.3.6. BSMP Mitigation Measures for Air Quality*

The following mitigation measures are those listed in the BSMP EIR that are relative to residential development and are applied to this Project:

**Mitigation Measure 3.3-1(a): Fugitive Dust Control Plan**

During the construction of the BSMP, individual project applicants shall submit to FRAQMD a Fugitive Dust Control Plan with the following mitigation measures to be implemented:

a) All grading operations on a project shall be suspended when sustained winds exceed 20 miles per hour (mph) or when winds carry dust beyond the property line despite implementation of all feasible dust control measures;

b) Construction sites shall be watered as directed by the FRAQMD and as necessary to prevent fugitive dust violations;

c) An operational water truck shall be on-site at all times. Water shall be applied to control dust as needed to prevent visible emissions violations and off-site dust impacts;

d) On-site dirt piles or other stockpiled particulate matter shall be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce wind-blow dust emissions. The use of

approved nontoxic soil stabilizers shall be incorporated according to manufacturers' specifications to all inactive construction areas;

e) All transfer processes involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions;

f) Approved chemical soil stabilizers shall be applied according to the manufacturers' specifications to all inactive construction areas (previously graded areas that remain inactive for 96 hours), including unpaved roads and employee/equipment parking areas;

g) To prevent track-out, wheel washers shall be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed before each trip. Alternatively, a gravel bed may be installed as appropriate at vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks and prevent/diminish track-out;

h) Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom permitted) if soil material has been carried onto adjacent paved, public thoroughfares from the project site;

i) Temporary traffic control shall be provided as needed during all phases of construction to improve traffic flow, as deemed appropriate by the appropriate department of public works and/or California Department of Transportation (Caltrans), and to reduce vehicle dust emissions. An effective measure is to enforce vehicle traffic speeds at or below 15 mph;

j) Traffic speeds on all unpaved surfaces shall be reduced to 15 mph or less, and unnecessary vehicle traffic shall be reduced by restricting access. Appropriate training to truck and equipment drivers, on-site enforcement, and signage shall be provided;

k) Ground cover shall be reestablished on the construction site as soon as possible and before final occupancy through seeding and watering; and

l) Open burning shall be prohibited at the project site. No open burning of vegetative waste (natural plant growth wastes) or other legal or illegal burn materials (e.g., trash, demolition debris) may be conducted at the project site. Vegetative wastes shall be chipped or delivered to waste-to-energy facilities (permitted biomass facilities), mulched, composted, or used for firewood. It is unlawful to haul waste materials off-site for disposal by open burning.

**Mitigation Measure 3.3-1(b): Control Exhaust Emissions**

Construction equipment exhaust emissions shall not exceed FRAQMD Regulation III, Rule 3.0, Visible Emissions Limitations (40 percent opacity or Ringelmann 2.0). Operators of vehicles and equipment found to exceed opacity limits shall take action to repair the equipment within 72 hours or remove the equipment from service. Failure to comply may result in a notice of violation from FRAQMD.

**Mitigation Measure 3.3-1(c): Limit Equipment Idling**

Construction contracts within the BSMP shall limit idling time to 5 minutes in accordance with ARB airborne air toxic control measure 13 (CCR Chapter 10 Section 2485) unless more time is required per engine manufacturers' specifications or for safety reasons.

**Mitigation Measure 3.3-1(d): Equipment Registration**

Portable engines and portable engine-driven equipment units used by construction contractors within the BSMP site, with the exception of on-road and off-road motor vehicles, may require ARB Portable Equipment Registration with the state or a local district permit. The owner/operator of the equipment shall be responsible for arranging appropriate consultations with ARB or the FRAQMD to determine registration and permitting requirements before the equipment is operated at the site.

**Mitigation Measure 3.3-1(e): Equipment Emissions Plan**

During the construction of the BSMP, individual project applicants shall assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that will be used an aggregate of 40 or more hours for a construction project. Applicants shall provide a plan for approval by FRAQMD demonstrating that the heavy-duty (equal to or greater than 50 horsepower) off-road equipment to be used for construction, including owned, leased, and subcontractor vehicles, will achieve a project-wide fleet-average 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent ARB fleet average at the time of construction.

These equipment emission reductions can be demonstrated using the most recent version of the Construction Mitigation Calculator developed by the SMAQMD. Acceptable options for reducing emissions may include use of late-model engines, low emission diesel products, alternative fuels, engine retrofit technology (Carl Moyer Guidelines), after-treatment products, voluntary off-site mitigation projects, the provision of funds for air district off-site mitigation projects, and/or other options as they become available. In addition, implementation of these measures would also result in a 5 percent reduction in ROG emissions from heavy-duty diesel equipment. FRAQMD shall be contacted to discuss alternative measures.

**Mitigation Measure 3.3-2: Implement Operational Mitigation Measures**

The project applicant(s) for tentative subdivision maps and development projects proposed under the BSMP shall implement the mitigation measures, as applicable to the proposed subdivision map or development project. At the time entitlements are sought, the City will evaluate measures below, determine which measures are applicable, and include those measures as conditions of approval or some other enforceable mechanism. All feasible measures listed below shall be incorporated into subdivision maps and development projects within the BSMP.

a) Subdivision maps and development projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park shall be developed in coordination with local transit providers to ensure proper placement and design of transit stops and accommodate public transit for both employees and patrons.

b) Subdivision maps and improvement plans shall be designed to provide convenient and safe bicycle, pedestrian, and transit access between neighborhoods and areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park, as well as parks, trails, and other destinations.

c) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall distribute proposed parking and not concentrate parking exclusively between the front building façade and the primary abutting street where feasible.

d) Cul-de-sacs are allowed only where they would not create a barrier for pedestrian and bicycle access or circulation between homes and destinations.

e) Employment generating projects that anticipate more than 50 full-time equivalent employees shall participate in the Yuba-Sutter Transportation Management Association.

f) Subdivision maps and improvement plans shall be designed to accommodate safe and frequent pedestrian crosswalks, with more frequent crossings in areas expected to have higher pedestrian traffic, such as schools, parks, trail connections, higher-density residential areas, and areas with retail, services, office uses, and other non-residential uses.

g) Subdivision maps and improvement plans shall be designed to discourage concentration of traffic at a few intersections. Multiple points of access shall be provided whenever feasible. Roads shall be arranged in an interconnected block pattern. The maximum average block length in subdivisions is 600 feet unless unusual existing physical conditions warrant an exception to this standard, but shorter block lengths should be used around areas designated Community Commercial and Neighborhood Commercial.

h) Subdivision maps and improvement plans shall be designed to connect with adjacent roadways and stubbed roads and shall provide frequent stubbed roadways in coordination with future planned development areas.

i) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to minimize the amount of on-site land required to meet parking, internal circulation, and delivery/loading needs.

j) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to break up any proposed surface parking with landscaping and provide pedestrian routes from parking areas to building entrances.

k) The City will reduce the amount of off-street parking required or eliminate off-street parking requirements for projects that propose housing units restricted to lower-, very low-, or extremely low-income households.

l) Residential subdivision maps shall orient the majority of buildings so that the longer axis of the building, also known as the ridge line, is oriented east-to-west, in order to maximize the potential for passive solar heating in the winter and to minimize heat gain from the afternoon summer sun.

m) Subdivision maps and development projects proposing off-street surface parking lots shall incorporate shade trees or shade structures to provide a minimum of 50 percent shading (at maturity, where trees are used).

n) Subdivision maps and development projects shall use climate-appropriate landscaping in parks and open space, landscaping within new rights of way, yards, and other appropriate spaces.

o) Provide secure, covered bicycle parking for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may consist of a separate secure, covered bicycle parking area at each employment location or larger shared bicycle parking area/s located and designed to serve multiple locations.

p) Shower and locker facilities shall be provided for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may be achieved by incorporating a shower and locker facility into the design of each proposed use, or facilities located and designed to serve multiple locations.

q) Residential development that proposes fireplaces shall use the lowest emitting commercially available fireplace.

r) Provide electric vehicle charging facilities and priority parking at non-residential uses for electric and carpool/vanpool vehicles.

## 3.4. Biological Resources

| Table 3.4: Biological Resources | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| 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? | | X | | |
| 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? | | X | | |
| c) Have a substantial adverse effect on states or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | | X | | |
| 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? | | | | X |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | | | | X |
| 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? | | | | X |

### *3.4.1 Environmental Setting/Affected Environment*

The 4.8 acres are currently planted as an orchard and is located on the fringe of the existing Yuba City urbanized area. There are single-family residences bordering the Project's north and east side.

### *3.4.2 Federal & State Regulatory Setting*

Threatened and Endangered Species: State and federal "endangered species" legislation has provided California Department of Fish & Wildlife (CDFW) and United States Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Species listed as threatened or endangered under provisions of the state and federal endangered species acts, candidate species for such listing, state species of special concern, and some plants listed as endangered by the California Native Plant Society are collectively referred to as "species of special status." Permits may be required from both the CDFW and USFWS if activities

associated with a proposed project will result in the "take" of a listed species. "Take" is defined by the state of California as "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" (California Fish and Game Code, Section 86). "Take" is more broadly defined by the federal Endangered Species Act to include "harm" (16 USC, Section 1532(19), 50 CFR, Section 17.3). Furthermore, the CDFW and the USFWS are responding agencies under CEQA. Both agencies review CEQA documents in order to determine the adequacy of their treatment of endangered species issues and to make project-specific recommendations for their conservation.

Migratory Birds: State and federal laws also protect most birds. The Federal Migratory Bird Treaty Act (16U.S.C., scc. 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

Birds of Prey: Birds of prey are also protected in California under provisions of the California Fish and Game Code, Section 3503.5, which states that it is "unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "taking" by the CDFW.

Wetlands and Other Jurisdictional Waters: Natural drainage channels and adjacent wetlands may be considered "Waters of the United States" subject to the jurisdiction of the USACE. The extent of jurisdiction has been defined in the Code of Federal Regulations but has also been subject to interpretation of the federal courts.

Waters of the U.S. generally include:

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters, which are subject to the ebb and flow of the tide.
- All interstate waters including interstate wetlands.
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce.
- All impoundments of waters otherwise defined as waters of the United States under the definition.
- Tributaries of waters identified in the bulleted items above.

As determined by the United States Supreme Court in its 2001 Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC) decision, channels and wetlands isolated from other jurisdictional waters cannot be considered jurisdictional on the basis of their use, hypothetical or observed, by migratory birds. Similarly, in its 2006 consolidated Carabell/Rapanos decision, the U.S. Supreme Court ruled that a significant nexus between a wetland and other navigable waters must exist for the wetland itself to be considered a navigable, and therefore, jurisdictional water.

The USACE regulates the filling or grading of Waters of the U.S. under the authority of Section 404 of the Clean Water Act. The extent of jurisdiction within drainage channels is defined by "ordinary high-water marks" on opposing channel banks. All activities that involve the discharge of dredge or fill material into Waters of the U.S. are subject to the permit requirements of the USACE. Such permits are typically issued

on the condition that the applicant agrees to provide mitigation that result in no net loss of wetland functions or values. No permit can be issued until the Regional Water Quality Control Board (RWQCB) issues a Section 401 Water Quality Certification (or waiver of such certification) verifying that the proposed activity will meet state water quality standards.

CEQA Guidelines Section 15380: Although threatened and endangered species are protected by specific federal and state statutes, CEQA Guidelines section 15380(d) provides that a species not listed on the federal or state list of protected species may be considered rare or endangered if the species can be shown to meet certain specific criteria that define "endangered" and "rare" as specified in CEQA Guidelines section 15380(b).

### *3.4.3 Local Regulatory Setting*

The General Plan provides the following policies for the protection of biological resources within the project area:

8.4-G-1 Protect special status species, in accordance with State regulatory requirements.

8.4-G-2 Protect and enhance the natural habitat features of the Feather River and new open space corridors within and around the urban growth area.

8.4-G-3 Preserve and enhance heritage oaks in the Planning Area.

8.4-G-4 Where appropriate, incorporate natural wildlife habitat features into public landscapes, parks, and other public facilities

8.4-I-1 Require protection of sensitive habitat area and special status species in new development site designs in the following order: 1) avoidance; 2) onsite mitigation; 3) offsite mitigation. Require assessments of biological resources prior to approval of any development within 300 feet of any creeks, sensitive habitat areas, or areas of potential sensitive status species.

8.4-I-2 Require preservation of oak trees and other native trees that are of a significant size, by requiring site designs to incorporate these trees to the maximum extent feasible.

8.4-I-3 Require to the extent feasible, use of drought tolerant plants in landscaping for new development, including private and public projects.

### *3.4.4 Impact Assessment/Environmental Consequences:*

*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?*

The BSMP EIR identifies several species in these categories that could potentially be located within the BSMP area. The EIR considers new development allowed by the BSMP that would substantially reduce or eliminate those species or their habitats to be potentially significant impacts. Those species are as follows:

**Elderberry Beetle.** Although the reconnaissance survey of the BSMP project site did not identify any elderberry shrubs, the biological survey was reconnaissance in nature and a comprehensive pedestrian or protocol-level survey was not conducted. Further, over time elderberry shrubs could grow and be present prior to the initiation of construction of an individual project developed under the proposed BSMP. Therefore, there is the potential for elderberry shrubs to occur on the Project site. Elderberry shrubs within 165 feet of the Project area could impact valley elderberry longhorn

beetle as a result of project activities. Project activities include, but are not limited to the individual Project site, staging areas, spoils sites, and construction access. This would be a significant impact.

Mitigation Measure 3.4-2 would ensure that individual projects developed pursuant to the proposed BSMP avoids or reduces the magnitude of impacts to the federally listed valley elderberry longhorn beetle by avoiding impacts to the elderberry shrubs, their host plants, by transplanting during the dormant season, or by mitigating for removal of shrubs. Therefore, this impact would be reduced to a less-than-significant level.

**Migratory birds and other birds of prey.** These birds are protected under the MBTA and/or Section 3503 of the California Fish and Game Code could nest on or in the vicinity of the BSMP project site. If birds nest in the construction footprint of the Project developed pursuant to the proposed BSMP (i.e., individual project site, staging areas, spoils sites, construction access, etc.) and construction were to occur during the nesting season (February 1 through August 31) direct mortality could result from removal or damage to eggs or young. Implementation of any element of the BSMP could affect migratory bird nests should they be present in the buildings and outbuildings, if proposed for demolition, in the annual grassland, if proposed for vegetation grading, or in the trees associated with the urban areas, agricultural land, and oak woodland, if proposed for removal, through direct mortality because of removal of or damage to eggs or young. This would be a significant impact.

Mitigation Measure 3.4-3 would ensure that the Project avoid or reduces the magnitude of impacts to migratory birds and birds of prey through clearing vegetation outside of the nesting season or conducting preconstruction surveys if vegetation clearing is anticipated during the nesting season, and establishing a no-work buffer if birds are observed nesting in the vicinity of the construction footprint. Therefore, this impact would be reduced to a less-than-significant level.

**Bats.** Bats have the potential to roost in the buildings, outbuildings, and trees within the BSMP area. Implementation of the proposed Project could result in direct mortality of roosting bats should they be present in the buildings, outbuildings, and trees proposed for removal. This is considered a significant impact.

Mitigation Measure 3.4-4 would ensure that the Project is developed pursuant to the BSMP and avoids or reduces the magnitude of impacts to special-status bats by delaying tree or building removal until the roosting bats vacate the buildings/trees. Therefore, this impact would be reduced to a less-than-significant level.

**Oak trees.** The EIR prepared for the BSMP identifies the loss of native oak trees as a significant impact. A review of the site provided that there are no native oaks trees on the orchard property and thus there is no impact from the loss of oak trees.

**Rare plant species.** Non-native annual grassland within the final phase of the BSMP provides habitat for the following species: dwarf downingia (blooms March through May) and Ferris' mile-vetch (blooms April through May). The non-native grassland and oak woodland within the final phase provide habitat for Baker's navarretia (blooms April through July) and Hartweg's golden sunburst (blooms March through April). If these species are present and are not identified and appropriately managed, grading, or other ground disturbance related to development under the proposed BSMP would result in the removal of the species. This is considered a significant impact.

Mitigation Measure 3.4-6 would ensure that the Project avoids or mitigates for impacts to special-status plants by avoiding, relocating, or mitigating for any potentially occurring special-status plants. Therefore, this impact would be reduced to a less-than-significant level.

**Loss of Swainson Hawk habitat:** Per the BSMP EIR the California Department of Fish and Wildlife considers 5 or more vacant acres within 10 miles of a Swainson's hawk nest active within the last five years to be significant foraging habitat for Swainson's hawk, the conversion of which to urban uses is considered a significant impact. As the Project is 4.8 acres the potential loss of habitat would be less than significant.

**Cumulative loss of wildlife habitat.** As development within the Central Sacramento Valley continues, habitat for plant and wildlife species native to the region will be lost through conversion to urban environment. Although more mobile species may be able to survive these changes in their environment by moving to new areas, less mobile species could become extirpated. With continued conversion of natural habitat to urban and agricultural use, the availability and accessibility of habitat would decrease. Although the majority of the existing Project site supports land that has already been converted to agricultural land, the annual grassland and oak woodland areas could potentially be used by special-status bird species, including Swainson's hawk, burrowing owl, northern harrier, song sparrow, and white-tailed kite for foraging and nesting and by special-status plants, if present within these habitat types. In addition, elderberry shrubs, which are sole hosts of elderberry longhorn beetle, could be present within and adjacent to the Project site. The project site also supports potentially jurisdictional waters of the U.S. Construction of the proposed Project could result in the loss and/or degradation of sensitive habitats including waters of the U.S. Construction of the proposed Project, in combination with other development projects in the vicinity could, therefore, contribute to the fragmentation and loss of regional biodiversity through the incremental conversion of natural habitat for special-status species to urban development, and thereby limit the availability and accessibility of remaining habitats to regional wildlife.

The loss of land supporting areas of natural habitat will overcome any one project's ability to compensate for lost habitat values. Therefore, the loss of plant and wildlife habitat and waters of the U.S. as a result of implementation of the proposed project is cumulatively considerable, resulting in a significant and unavoidable impact. Overriding considerations were made with the BSMP approval process. As this Project is consistent with the BSMP land uses, policies, and programs, the impact from the West Railroad Village Subdivision on biological resources would not create any additional significant impacts.

*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?*

See Section a) above for impacts on specific species and habitat types

*c) Have a substantial adverse effect on states or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

Regarding wetlands, a reconnaissance level survey of the BSMP area was prepared for the BSMP EIR. Aerial imagery of the areas of the BSMP not accessed during the reconnaissance survey indicate similar land cover and land uses as the portions of the plan area that were surveyed, and do not display visual indicators of potential wetlands or waterways. Per the EIR though, there remains the potential that some wetland features may exist in the areas not surveyed (includes this Project). Fill or disturbance to a potential wetland or other water of the U.S. is considered a significant impact. To reduce this potential impact to a less than significant level Mitigation Measure 3.4-1 requires that the Project achieve a no net

loss of wetlands through avoidance and/or mitigation. Therefore, this impact would be reduced to a less-than-significant level.

*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?*

The proposed Project would not disturb any waterways, as the nearest waterway is the Feather River, being approximately one mile to the east. As stated in the BSMP EIR, Project implementation would not interfere substantially with the movement of any native resident or migratory wildlife species because the BSMP area does not contain any wildlife movement corridors. Per the BSMP EIR the BSMP area also does not contain any known wildlife nurseries, such as deer fawning sites.

*e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

No trees or other known biological resources that would be protected by local policies or ordinances that are not already discussed above are within the BSMP area, including this Project site. Therefore, there would be no significant impacts due to conflicts with local policies or ordinances.

*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?*

There are no adopted habitat conservation plans, natural community conservation plans, or any other approved local, regional, or state habitat conservation plans in the vicinity of this Project.

### *3.4.1. BSMP Mitigation Measures for Biological Resources from the BSMP EIR*

**Mitigation Measure 3.4-1: Protection of Jurisdictional Waters and Wetlands**

a) Prior to grading activities, the City shall require the project applicant [for an individual project pursuant to the BSMP] to prepare a formal aquatic resources delineation in accordance with the USACE Minimum Standards for Acceptance of Aquatic Resources Delineation Report for all areas of the individual development project site to determine if any wetlands or other waters of the U.S. potentially subject to Sections 401 and 404 of the CWA exist on that site. If no potential wetlands or other waters of the U.S. are identified, a report shall be submitted to the City for its records and no additional measures are required. If the formal aquatic resources delineation identifies potentially jurisdictional features on an individual project site, then measure 3.4-1(b) shall be implemented (below). If potential canals, streams, or lakes are identified that may be impacted by project activities, mitigation 3.4-1(c) shall also be implemented.

b) If the formal aquatic resources delineation identifies potentially jurisdictional features on an individual development project site, then the report shall be submitted to the USACE for verification and issuance of a jurisdictional determination. If any wetlands or waters are determined to be under the jurisdiction of the USACE or the RWQCB and may be impacted by project development, then the individual project applicant shall obtain Section 404/401 permits based on the jurisdictional determination with the appropriate regulatory agency for the potentially impacted features. During the permitting process, mitigation measures shall be

developed as necessary to reduce impacts on wetlands through avoidance, minimization and/or compensatory mitigation. Permanent losses to potentially jurisdictional wetlands and other waters of the U.S. shall be compensated at a minimum 1:1 ratio (or otherwise agreed upon ratio with the USACE and RWQCB) to achieve a no net loss of wetlands.

c) If the individual development project would result in impacts to the bed and banks of Gilsizer Slough, or other jurisdictional water courses with a defined bed and bank as identified in an aquatic resources delineation or jurisdictional determination, the City shall notify, or require the project applicant to notify, the CDFW. The CDFW will determine whether a Section 1600 Lake and Streambed Alteration Agreement (LSAA) is required. If required, the individual project applicant shall apply for and adhere to the conditions of the LSAA. This action shall be completed prior to issuance of a grading permit or initiation of other project activities that may impact the canal or other jurisdictional water courses.

**Mitigation Measure 3.4-2: Protection of Valley Elderberry Longhorn Beetle**

a) The individual project applicant shall engage a qualified biologist to conduct a survey of the construction footprint and 165-foot buffer around the proposed construction footprint to determine whether any elderberry shrubs with stems at least one-inch dgl are present. If no such elderberry shrubs are present within 165 feet of construction activities, a report shall be submitted to the City for its records and no additional measures are required.

b) If elderberry shrubs with stems at least one-inch dgl are present within 165 feet of construction activities, the following avoidance measures shall be implemented, at minimum, in accordance with the VELB Impact Assessment.

    1. Fencing shall be installed as close to the construction limits as feasible for shrubs occurring within 165 feet.
    2. In areas where work would occur within near proximity to elderberry shrub, exclusion fencing shall be established a minimum of a 20-foot radius around the shrubs.
    3. An individual project applicant shall engage a qualified biologist to provide worker awareness training for all contractors, work crews, and any onsite personnel, on the status of the VELB, its host plant and habitat, the need to avoid damaging the shrubs, and the possible penalties for non-compliance.
    4. Mechanical weed removal within the drip-line of the shrub shall be limited to the season when adults are not active (August - February) and shall avoid damaging the elderberry.

c) If elderberry shrubs cannot be avoided or if indirect effects will result in the death of stems or entire shrubs, the elderberry shrubs with stems greater than one-inch dgl shall be transplanted.

    1. The individual project applicant shall engage a qualified biologist to monitor the transplanting activities.
    2. Elderberry shrubs shall be transplanted when the shrubs are dormant (November through February 14) and after they have lost their leaves.

d) For shrubs that cannot be avoided, the individual project applicant shall purchase compensatory mitigation for impacts to elderberry shrubs. The appropriate type and amount of compensatory mitigation shall be determined through coordination with the USFWS. Appropriate compensatory

mitigation may include purchasing credits at a USFWS-approved conservation bank at a minimum 1:1 ratio, providing onsite mitigation, and/or establishing and/or protecting habitat for the valley elderberry longhorn beetle.

**Mitigation Measure 3.4-3: Protection of Migratory Birds and Raptors**

a) Building demolition and vegetation clearing operations, including initial grading and tree removal, shall occur outside of the nesting season (September 1 through January 31) to the extent feasible. If vegetation removal or building demolition begins during the nesting season (February 1 to August 31), the individual project applicant shall engage a qualified biologist to conduct a pre-construction survey for active nests within a 500-foot buffer around the individual project footprint. The pre-construction survey shall be conducted within 14 days prior to commencement of ground disturbing activities. If the pre-construction survey shows that there is no evidence of active nests, then a report shall be submitted to the City for its records and no additional measures are required. If construction does not commence within 14 days of a pre-construction survey, or halts for more than 14 days, an additional pre-construction survey is required for each period of delay.

b) If any active nests are located within the construction footprint – including, but not limited to individual project site, staging areas, spoils sites, construction access – an appropriate buffer zone shall be established around the nests, as determined by the qualified biologist based on applicable regulatory requirements in force at the time of construction activity. The biologist shall mark the buffer zone with construction tape or pin flags and maintain the buffer zone until the end of breeding season or until the young have successfully fledged or the nest is determined too no longer be active. Buffer zones are typically 50-100 feet for migratory bird nests and 250-500 feet for raptor nests (excluding Swainson's hawk). If active nests are found within the vicinity of the construction areas, the qualified biologist shall monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. If establishing the typical buffer zone is impractical, the qualified biologist shall adjust the buffer depending on the species and daily monitoring would be required to ensure that the nest is not disturbed, and no forced fledging occurs. This daily monitoring shall occur until the qualified biologist determines that the nest is no longer occupied.

**Additional Measures for Burrowing Owl**

c) Prior to any individual project construction, the project applicant shall engage a qualified biologist to conduct a habitat assessment to determine if potential nesting habitat is present with an individual project area. If potential nesting habitat is present, nesting and wintering season surveys for burrowing owl shall be conducted to determine if potential habitat within 500 feet of ground disturbance is used by this species. As described in Table 3.4-2, suitable burrowing owl habitat includes the annual grassland and agricultural land. The timing and methodology for the surveys shall be conducted in accordance with the current CDFW Staff Report on Burrowing Owl Mitigation (Appendix D-3).1 A minimum of three survey visits should be conducted at least three weeks apart during the peak breeding season between April 15 and July 15. One of these surveys could be conducted at the same time as the nesting bird survey (Mitigation Measure 3.4-3a) should work be anticipated to commence within 14 days and between April 15 and July 15. A

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winter survey shall be conducted between December 1 and January 31, during the period when wintering owls are most likely to be present.

d) If an active burrowing owl nest site/active burrow is discovered in the vicinity of an individual project construction footprint – including, but not limited to individual project site, staging areas, spoils sites, construction access – the project applicant shall notify the City and CDFW. A qualified biologist shall monitor the owls and establish a fenced exclusion zone around each occupied burrow. No construction activities shall be allowed within the exclusion buffer zone until such time that the burrows are determined by a qualified biologist to be unoccupied. The buffer zones shall be a minimum of 150 feet from an occupied burrow during the non-breeding season (September 1 through January 31) and a minimum of 250 feet from an occupied burrow during the breeding season (February 1 through August 31).

e) If avoidance is not feasible, the CDFW shall be consulted to develop and the implement avoidance or passive relocation methods. All activities that will result in a disturbance to burrows shall be approved by the CDFW prior to implementation.

**Additional Measures for Swainson's Hawk**

f) If construction activities are anticipated to commence during the Swainson's hawk nesting season (March 1 to September 15), the individual project applicant shall engage a qualified biologist to conduct a minimum of two pre-construction surveys during the recommended survey periods in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Appendix D-4).2 All potential nest trees within 0.25 mile of the proposed project footprint shall be visually examined for potential Swainson's hawk nests, as accessible. If no active Swainson's hawk nests are identified on or within 0.25 mile of the proposed project, a report documenting the survey methodology and findings should be submitted to the City for its files and no additional mitigation measures are required.

g) If active Swainson's hawk nests are found within 0.25 mile of construction activities, a survey report shall be submitted to the CDFW and the CNDDB, and an avoidance and minimization plan shall be provided to and approved by the CDFW prior to the start of construction of the given development proposal. The avoidance plan shall identify measures to avoid or minimize impacts to the active Swainson's hawk nest. These measures may include, but are not limited to:

1. Conducting a Worker Awareness Training Program prior to the start of construction;
2. Establishing a buffer zone and work schedule to avoid impacting the nest during critical periods. If practicably feasible, no work will occur within 200 yards of the nest while it is in active use. If work will occur within 200 yards of the nest, then construction shall be monitored by a qualified biologist to ensure that no work occurs within 50 yards of the nest during incubation or within ten days after hatching;
3. Having a qualified biological monitor conduct regular monitoring of the nest during construction activities; and
4. Allowing the qualified biologist to halt construction activities until CDFW determines that the construction activities are disturbing the nest.

**Mitigation Measure 3.4-4: Protection of Bat Species**

a) The individual project applicant shall engage a qualified biologist to conduct a pre-construction survey for special-status bat species within 14 days prior to the start of tree or building removal within the BSMP project site. If no special-status bats are observed roosting, a report shall be submitted to the City for its records and no additional measures are required. If construction does not commence or if any trees or buildings anticipated for removal are not removed within 14 days of the pre-construction survey or halts for more than 14 days, a new survey and reporting shall be conducted.

b) If bats including pallid bats are found, the qualified biologist shall consult with the CDFW to determine and implement avoidance measures. Avoidance measures may include, but are not limited to, establishing a buffer around the roost tree, or building until it is no longer occupied or installing exclusion material around the tree/opening of the building after dusk, once the qualified biologist has determined that the bat has left the roost to forage. The tree or building shall not be removed until a biologist has determined that the tree or building is no longer occupied by the bats.

**Mitigation Measure 3.4-6: Rare Plant Protection**

a) The individual project applicant shall retain a qualified biologist to conduct focused botanical protocol-level surveys in the nonnative annual grassland for dwarf downingia (blooms March through May) and Ferris' mile-vetch (blooms April through May) and in the non-native grassland and oak woodland for Baker's navarretia (blooms April through July) and Hartweg's golden sunburst (blooms March through April). Surveys shall be conducted during blooming periods for all special-status species. (It is noted that the blooming periods for these plant species overlap in the month of April.) If no special-status plants are observed within the survey area, then a report shall be submitted to the City and no additional mitigation is required so long as construction commences within two years of the survey.

b) If Baker's navarretia, dwarf downingia, or Ferris' milk-vetch are observed within the project site, the plants should be avoided with a minimum 10-foot avoidance buffer with exclusion fencing, to the extent feasible. If these special-status plants cannot be avoided, a mitigation plan shall be prepared by a qualified botanist. At minimum, the mitigation plan shall include locations where the plants will be transplanted, success criteria, and monitoring activities for the transplanted populations. The mitigation plan shall be finalized prior to transplantation and commencement of construction activities.

c) If the federal and state endangered Hartweg's golden sunburst is observed, the plants shall be avoided to the extent feasible.

    1. If the plants cannot be avoided, the individual project applicant shall obtain a CESA Section 2081(b) Incidental Take Permit. Measures to minimize the take and to mitigate the impacts caused by the take shall be set forth in one or more conditions of the permit. Potential conservation measures include, but are not limited to, purchasing credits from a mitigation bank, establishing a preserve, and/or preparing a mitigation plan.

2. If the plants cannot be avoided and if the project requires USFWS Section 7 consultation (i.e., would impact a jurisdictional wetland or water of the U.S. requiring a Section 404 CWA permit), consultation with the USFWS through the Section 7 process shall occur to determine any additional avoidance, conservation, and mitigation measures that may be needed for the species, if any. The individual project applicant is not required to consult for impacts to federally listed plants without a federal nexus.

## 3.5 Cultural Resources

| Table 3.5: Cultural Resources | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5. | | | X | |
| b) Cause a substantial adverse change in the significance of an archeological resource pursuant to § 15064.5. | | X | | |
| c) Disturb any human remains, including those interred outside of formal cemeteries? | | X | | |

### *3.5.1 Federal Regulatory Setting*

National Historic Preservation Act of 1966 (as amended), Section 106: The significance of cultural resources is evaluated under the criteria for inclusion in the National Register of Historic Places (NRHP), authorized under the National Historic Preservation Act of 1966, as amended. The criteria defined in 36 CFR 60.4 are as follows:

The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects of state and local importance that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- That are associated with events that have made a significant contribution to the broad patterns of our history; or
- That are associated with the lives of persons significant in our past; or
- That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- That have yielded, or may be likely to yield, information important to prehistory or history.

Sites listed or eligible for listing on the NRHP are considered to be historic properties. Sites younger than 50 years, unless of exceptional importance, are not eligible for listing in the NRHP.

### *3.5.2 State Regulatory Setting*

CEQA requires consideration of project impacts on archaeological or historical sites deemed to be "historical resources." Under CEQA, a substantial adverse change in the significant qualities of a historical resource is considered a significant effect on the environment. For the purposes of CEQA, a "historical resource" is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources (Title 14 CCR §15064.5[a][1]-[3]). Historical resources may include, but are not limited to, "any object, building, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California" (PRC §5020.1[j]).

The eligibility criteria for the California Register are the definitive criteria for assessing the significance of historical resources for the purposes of CEQA (Office of Historic Preservation). Generally, a resource is considered "historically significant" if it meets one or more of the following criteria for listing on the California Register:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- Is associated with the lives of persons important in our past.
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- Has yielded, or may be likely to yield, information important in prehistory or history. (PRC §5024.1[c])

In addition, the resource must retain integrity. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association (CCR Title 14, § 4852(c)).

Historical resources may include, but are not limited to, "any object, building, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California" (PRC §5020.1[j]).

California Health and Safety Code Section 7050.5: Health and Safety Code states that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the remains are discovered has determined whether or not the remains are subject to the coroner's authority. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Native American Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

### *3.5.3 Native American Consultation*

In September of 2014, the California Legislature passed Assembly Bill (AB) 52, which added provisions to the PRC regarding the evaluation of impacts on tribal cultural resources under CEQA, and consultation requirements with California Native American tribes. In particular, AB 52 now requires lead agencies to analyze project impacts on "tribal cultural resources" separately from archaeological resources (PRC §

21074; 21083.09). AB 52 also requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (PRC § 21080.3.1, 21080.3.2, 21082.3).

In response to AB 52, the City supplied the following Native American tribes with a Project description and map of the proposed Project area and a request for comments:

- United Auburn Indian Community of the Auburn Rancheria
- Yocha Dehe Wintun Nation
- Estom Yomeka Maidu Tribe of the Enterprise Rancheria
- Mechoopda Indian Tribe
- Pakan'yani Maidu of Strawberry Valley
- Mooretown Rancheria of Maidu Indians
- Ione Band of Miwok Indians

No tribal comments were received in response to inquiry for this Project. The mitigation measure that follows is based on responses received for the BSMP EIR.

### *3.5.4 Impact Assessment/Environmental Consequences:*

*a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5.*

The BSMP EIR addressed the potential for significant impacts on historical resources with the development of the area and provides mitigations to reduce potential significant impacts. However, there are no structures on the Project site. Therefore, the potential impacts on any historical resources are less than significant.

*b) Cause a substantial adverse change in the significance of an archeological resource pursuant to § 15064.5.*

Because ground-disturbing activities, including depth of disturbance have not yet been determined for the future phases of development within the BSMP area, it was premature to conduct detailed cultural resources surveys as part of the BSMP process. However, because the BSMP EIR determined that the BSMP area has a high sensitivity for buried archaeological resources, individual projects pursuant to the proposed BSMP could adversely impact undiscovered archaeological resources and/or human remains, which would result in a significant impact. Implementation of Mitigation Measure 3.5-2(b) below would ensure that cultural resources analysis is conducted.

With implementation of these mitigation measures it is ensured that analysis and mitigation of impacts is conducted for future phases of development within the BSMP. Implementation of Mitigation Measure 3.5-2(a) and Mitigation Measure 3.5-2(b) would ensure that impacts to prehistoric archaeological resources, tribal cultural resources, and human remains would be less than significant.

*c) Disturb any human remains, including those interred outside of formal cemeteries?*

See Part b) above.

### *3.5.5 BSMP Mitigation Measures for Cultural Resources from the BSMP EIR*

**Mitigation Measure 3.5-2(a): Protection of Archaeological Resources (**Only if the results of implementation of Mitigation 3.5-2(b) necessitates its use)**.**

**Archaeological Monitoring Plan.** Prior to issuance of grading permits or ground-disturbing construction activity in the Newkom Ranch and Kells East Ranch properties, the project applicant shall prepare and submit an Archaeological Monitoring Plan to the City of Yuba City for review and approval. Monitoring shall be required for all surface alteration and subsurface excavation work, including trenching, boring, grading, use of staging areas and access roads, and driving vehicles and equipment. A Secretary of the Interior-qualified professional archaeologist (project archaeologist) shall prepare the plan. The plan shall address (but not be limited to) the following issues:

- Training program for all construction and field workers involved in site disturbance;
- Person(s) responsible for conducting monitoring activities, including both archaeological and Native American monitors;
- How the monitoring shall be conducted and the required format and content of monitoring reports, including the need to conduct trenching, shovel-test units, or auger samples to identify archaeological deposits in advance of construction, assessment, designation, and mapping of the sensitive cultural resource areas on final project maps, assessment, and survey of any previously un-surveyed areas;
- Person(s) responsible for overseeing and directing the monitors;
- Schedule for submittal of monitoring reports and person(s) responsible for review and approval of monitoring reports;
- Procedures and construction methods to avoid sensitive cultural resource areas (i.e., planning construction to avoid the resource, incorporating the resource within open space, capping, and covering the resource, or deeding the site into a permanent conservation easement);
- Clear delineation and fencing of sensitive cultural resource areas;
- Physical monitoring boundaries;
- Protocol for notifications in case of encountering of cultural resources, as well as methods of dealing with the encountered resources (e.g., collection, identification, curation);
- Methods to ensure security of cultural resources;
- Protocol for notifying local authorities (i.e. Sheriff, Police) should site looting and other illegal activities occur during construction.

**Archaeological and Native American Monitoring.** If an intact archaeological resource is encountered, all soil disturbing activities in the vicinity of the resource shall cease until it is evaluated. The project archaeologist shall immediately notify the City of Yuba City of an encountered archaeological resource. The project archaeologist and Native American monitor shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological resource, present the findings of this assessment to the City.

During the course of the monitoring, the project archaeologist and Native American monitor may adjust the frequency—from continuous to intermittent—of the monitoring based on the conditions and professional judgment regarding the potential to impact resources.

If the City, in consultation with the project archaeologist and Native American monitor, determines that a significant archaeological resource is present and that the resource could be adversely impacted by the project, the City shall:

- Determine whether preservation in place is feasible. Consistent with CEQA Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement.
- If avoidance is not feasible, prepare and implement a detailed Archaeological Research Design and Treatment Plan. Treatment of archaeological resources will follow the applicable requirements of Public Resources Code Section 21083.2. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals.
- If potential human remains are encountered, all work will halt in the vicinity of the find and the City will contact the county coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5. If the coroner determines the remains are Native American, the coroner shall contact the Native American Heritage Commission. As provided in Public Resources Code Section 5097.98, the Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations for means of treating, with appropriate dignity, the human remains, and any associated grave goods as provided in Public Resources Code Section 5097.98.

**Mitigation Measure 3.5-2(b): Protection of Historic Archaeological Resources**

When BSMP-level development plans outside the Newkom Ranch and Kells East Ranch properties are submitted to the City of Yuba City for approval, the project applicant shall be required to complete a cultural resources investigation for review and approval by the City that includes, at a minimum:

- An updated records search at the Northeast Information Center;
- Updated Native American consultation in coordination with the Native American Heritage Commission
- An intensive archaeological survey of the development area;
- A geoarchaeological assessment for the potential for buried archaeological resources;
- A report that documents the results of the investigation; and
- Recommendations for mitigation to resolve adverse impacts to significant archaeological resources or human remains. The survey shall be carried out by a qualified archaeologist meeting the Secretary of the Interior's Standards for Archaeology and can be documented in the same document as required in Mitigation Measure 3.5-1(a).

## 3.6 Energy

| Table 3-6: Energy | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation? | | | X | |
| b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency? | | | X | |

### *3.6.1 State Regulatory Setting*

California has implemented numerous energy efficiency and conservation programs that have resulted in substantial energy savings. The State has adopted comprehensive energy efficiency standards as part of its Building Standards Code, California Codes of Regulations, Title 24. In 2009, the California Building Standards Commission adopted a voluntary Green Building Standards Code, also known as CALGreen, which became mandatory in 2011. Both Title 24 and CALGreen are implemented by the City of Yuba City in conjunction with its processing of building permits.

CALGreen sets forth mandatory measures, applicable to new residential and nonresidential structures as well as additions and alterations, on water efficiency and conservation, building material conservation, interior environmental quality, and energy efficiency. California has adopted a Renewables Portfolio Standard, which requires electricity retailers in the state to generate 33% of electricity they sell from renewable energy sources (i.e., solar, wind, geothermal, hydroelectric from small generators, etc.) by the end of 2020. In 2018, SB 100 was signed into law, which increases the electricity generation requirement from renewable sources to 60% by 2030 and requires all the state's electricity to come from carbon-free resources by 2045.

### *3.6.2. Impact Assessment/Environmental Consequences*

*a) Result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation?*

Site preparation, grading and construction would involve fuel consumption and use of other non-renewable resources. Construction equipment used for such improvements typically runs on diesel fuel or gasoline. The same fuels typically are used for vehicles that transport equipment and workers to and from a construction site. However, construction-related fuel consumption would be finite, short-term, and consistent with construction activities of a similar character. This energy use would not be considered wasteful, inefficient, or unnecessary.

Electricity may be used for equipment operation during construction activities. It is expected that more electrical construction equipment would be used in the future, as it would generate fewer air pollutant and GHG emissions. This electrical consumption would be consistent with construction activities of a similar character; therefore, the use of electricity in construction activities would not be considered wasteful, inefficient, or unnecessary, especially since fossil fuel consumption would be reduced. Moreover, under California's Renewables Portfolio Standard, a greater share of electricity would be provided from renewable energy sources over time, so less fossil fuel consumption to generate electricity would occur.

The Project would be required to comply with CALGreen and with the building energy efficiency standards of California Code of Regulations Title 24, Part 6 in effect at the time of Project approval. Compliance with these standards would reduce energy consumption associated with Project operations, although reductions from compliance cannot be readily quantified. Overall, Project construction would typically not consume energy resources in a manner considered wasteful, inefficient, or unnecessary.

Project impacts related to energy consumption are considered less than significant.

### *b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?*

Development that could result from this Project would be required to be consistent with applicable state and local plans for increased energy efficiency. Thus, the Project's impacts due to conflicts with state or local renewable energy policies would be less than significant.

## 3.7 Geology and Soils

| Table 3.7: Geology and Soils | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Directly or indirectly create 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 | | | X | |
| ii) Strong seismic ground shaking? | | | X | |
| iii) Seismic-related ground failure, including liquefaction? | | | X | |
| iv) Landslides? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil? | | | X | |
| c) Be located on a geological 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? | | | X | |
| d) Be located on expansive soil, as defined in the California Building Code creating substantial direct or indirect risks to life or property? | | | | X |
| 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? | | | | X |
| f) Directly or indirectly destroy a unique paleontological resources or site or unique geologic feature? | | | X | |

### *3.7.1 Environmental Setting/Affected Environment*

Topography and Geology: According to the Sutter County General Plan, Sutter County is located in the flat surface of the Great Valley geomorphic province of California. The Great Valley is an alluvial plain approximately 50 miles wide and 400 miles long in the central portion of California. The Great Valley's northern portion is the Sacramento Valley, drained by the Sacramento River, and its southern portion is the San Joaquin Valley, drained by the San Joaquin River. The geology of the Great Valley is typified by thick sequences of alluvial sediments derived primarily from erosion of the mountains of the Sierra Nevada to the east, and to a lesser extent, erosion of the Klamath Mountains and Cascade Range to the

north. These sediments were transported downstream and subsequently laid down as a river channel, floodplain deposits, and alluvial fans.

Seismic Hazards: Earthquakes are due to a sudden slip of plates along a fault. Seismic shaking is typically the greatest cause of losses to structures during earthquakes. Earthquakes can cause structural damage, injury, and loss of life, as well as damage to infrastructure networks such as water, power, gas, communication, and transportation lines. Other damage-causing effects of earthquakes include surface rupture, fissuring, settlement, and permanent horizontal and vertical shifting of the ground. Secondary impacts can include landslides, seiches, liquefaction, and dam failure.

Seismicity: Although all of California is typically regarded as seismically active, the Central Valley region does not commonly experience strong ground shaking resulting from earthquakes along known and previously unknown active faults. Though no active earthquake faults are known to exist in Yuba City, active faults in the region could generate ground motion felt within the County. Numerous earthquakes of magnitude 5.0 or greater on the Richter scale have occurred on regional faults, primarily those within the San Andreas Fault System in the region. There are several potentially active faults underlying the Sutter Buttes, which are associated with deep-seated volcanism.

The faults identified in Sutter County include the Quaternary Faults, located in the northern section of the County within the Sutter Buttes, and the Pre-Quaternary Fault, located in the southeast of the City, just east of where Highway 70 enters into the County. Both Faults are listed as non-active faults but have the potential for seismic activity.

Ground Shaking: As stated in the Sutter County Multi-Hazard Mitigation Plan, although the County has felt ground shaking from earthquakes with epicenters located elsewhere, no major earthquakes or earthquake related damage has been recorded within the County. Based on historic data and known active or potentially active faults in the region, parts of Sutter County have the potential to experience low to moderate ground shaking. The intensity of ground shaking at any specific site depends on the characteristics of the earthquake, the distance from the earthquake fault, and on the local geologic and soils conditions. Fault zone maps are used to identify where such hazards are more likely to occur based on analyses of faults, soils, topography, groundwater, and the potential for earthquake shaking sufficiently strong to trigger landslide and liquefaction.

Liquefaction: Liquefaction, which can occur in earthquakes with strong ground shaking, is mostly found in areas with sandy soil or fill and a high-water table located 50 feet or less below the ground surface. Liquefaction can cause damage to property with the ground below structures liquefying making the structure unstable causing sinking or other major structural damage. Evidence of liquefaction may be observed in "sand boils," which are expulsions of sand and water from below the surface due to increased pressure below the surface.

Liquefaction during an earthquake requires strong shaking and is not likely to occur in the city due to the relatively low occurrence of seismic activity in the area; however, the clean sandy layers paralleling the Sacramento River, Feather River, and Bear River have lower soil densities and high overall water table are potentially a higher risk area if major seismic activity were to occur. Areas of bedrock, including the Sutter Buttes have high density compacted soils and contain no liquefaction potential, although localized areas of valley fill alluvium can have moderate to high liquefaction potential.

Landslides: Landslides are downward and outward movements of slope forming materials which may be rock, soil, artificial fill, or combinations of such materials. The size of landslides varies from those containing less than a cubic yard of material to massive ones containing millions of cubic yards. Large landslides may move down slope for hundreds of yards or even several miles. A landslide may move rapidly or so slow that a change of position can be noted only over a period of weeks or years. A similar,

but much slower movement is called creep. The susceptibility of a given area to landslides depends on a great many variables. With the exception of the Sutter Buttes, Yuba City is located in a landslide-free zone due to the flat topography. The Sutter Buttes are considered to be in a low landslide hazard zone as shown in Bulletin 198 by the California Division of Mines and Geology.

Soil Erosion: Erosion is a two-step process by which soils and rocks are broken down or fragmented and then transported. The breakdown processes include mechanical abrasion, dissolution, and weathering. Erosion occurs naturally in most systems but is often accelerated by human activities that disturb soil and vegetation. The rate at which erosion occurs is largely a function of climate, soil cover, slope conditions, and inherent soil properties such as texture and structure. Water is the dominant agent of erosion and is responsible for most of the breakdown processes as well as most of the transport processes that result in erosion. Wind may also be an important erosion agent. The rate of erosion depends on many variables including the soil or rock texture and composition, soil permeability, slope, extent of vegetative cover, and precipitation amounts and patterns. Erosion increases with increasing slope, increasing precipitation, and decreasing vegetative cover. Erosion can be extremely high in areas where vegetation has been removed by fire, construction, or cultivation. High rates of erosion may have several negative impacts including degradation and loss of agricultural land, degradation of streams and other water habitats, and rapid silting of reservoirs.

Subsidence: Subsidence is the sinking of a large area of ground surface in which the material is displaced vertically downward, with little or no horizontal movement. Subsidence is usually a direct result of groundwater, oil, or gas withdrawal. These activities are common in several areas of California, including parts of the Sacramento Valley and in large areas of the San Joaquin Valley. Subsidence is a greater hazard in areas where subsurface geology includes compressible layers of silt and clay. Subsidence due to groundwater withdrawal generally affects larger areas and presents a more serious hazard than does subsidence due to oil and gas withdrawal. In portions of the San Joaquin Valley, subsidence has exceeded 20 feet over the past 50 years. In the Sacramento Valley, preliminary studies suggest that much smaller levels of subsidence, up to two feet may have occurred. In most of the valley, elevation data are inadequate to determine positively if subsidence has occurred. However, groundwater withdrawal in the Sacramento Valley has been increasing and groundwater levels have declined in some areas. The amount of subsidence caused by groundwater withdrawal depends on several factors, including: (1) the extent of water level decline, (2) the thickness and depth of the water bearing strata tapped, (3) the thickness and compressibility of silt-clay layers within the vertical sections where groundwater withdrawal is occurring, (4) the duration of maintained groundwater level decline, (5) the number and magnitude of water withdrawals in a given area, and (6) the general geology and geologic structure of the groundwater basin. The damaging effects of subsidence include gradient changes in roads, streams, canals, drains, sewers, and dikes. Many such systems are constructed with slight gradients and may be significantly damaged by even small elevation changes. Other effects include damage to water wells resulting from sediment compaction and increased likelihood of flooding of low-lying areas.

Expansive Soils: Expansive soils are prone to change in volume due to the presence of moisture. Soft clay soils have the tendency to increase in volume when moisture is present and shrink when it is dry (shrink/swell). Swelling soils contain high percentages of certain kinds of clay particles that are capable of absorbing large quantities of water, expanding up to 10 percent or more as the clay becomes wet. The force of expansion is capable of exerting pressure on foundations, slabs, and other confining structures.

Soils: The Natural Resources Conservation Service (NRCS, formerly the Soil Conservation Service) has mapped over 40 individual soil units in the county. The predominant soil series in the county are the Capay, Clear Lake, Conejo, Oswald, and Olashes soils, which account for over 60 percent of the total land area. The remaining soil units each account for smaller percentages the total land area. The Capay and

Clear Lake soils are generally present in the western and southern parts of the county. The Conejo soils occur in the eastern part closer to the incorporated areas of the county. Oswald and Olashes soils are located in the central portion of the county extending north to south, with scattered areas along the southeastern edge of the county. Soil descriptions for the principal soil units in the county are provided below. These descriptions, which were developed by the NRCS, are for native, undisturbed soils and are primarily associated with agricultural suitability. Soil characteristics may vary considerably from the mapped locations and descriptions due to development and other uses. Geotechnical studies are required to identify actual engineering properties of soils at specific locations to determine whether there are specific soil characteristics that could affect foundations, drainage, infrastructure, or other structural features.

### *3.7.2 Federal Regulatory Setting*

Historic Sites Act of 1935: This Act became law on August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467) and has been amended eight times. This Act establishes as a national policy to preserve for public use historic sites, buildings, and objects, including geologic formations.

National Earthquake Hazards Reduction Program: The National Earthquake Hazards Reduction Program (NEHRP), which was first authorized by Congress in 1977, coordinates the earthquake-related activities of the Federal Government. The goal of NEHRP is to mitigate earthquake losses in the United States through basic and directed research and implementation activities in the fields of earthquake science and engineering. Under NEHRP, FEMA is responsible for developing effective earthquake risk reduction tools and promoting their implementation, as well as supporting the development of disaster-resistant building codes and standards. FEMA's NEHRP activities are led by the FEMA Headquarters (HQ), Federal Insurance and Mitigation Administration, Risk Reduction Division, Building Science Branch, in strong partnership with other FEMA HQ Directorates, and in coordination with the FEMA Regions, the States, the earthquake consortia, and other public and private partners.

### *3.7.3 State Regulatory Setting*

California Alquist-Priolo Earthquake Fault Zoning Act: The Alquist-Priolo Earthquake Fault Zoning Act (originally enacted in 1972 and renamed in 1994) is intended to reduce the risk to life and property from surface fault rupture during earthquakes. The statute prohibits the location of mot types of structures intended for human occupancy across the traces of active faults and regulates construction in the corridors along active faults.

California Seismic Hazards Mapping Act: The Seismic Hazards Mapping Act is intended to reduce damage resulting from earthquakes. While the Alquist-Priolo Earthquake Fault Zoning Act addresses surface fault rupture, the Seismic Hazards Mapping Act addresses other earthquake-related hazards, including ground shaking, liquefaction, and seismically induced landslides. The state is charged with identifying and mapping areas at risk of strong ground shaking, liquefaction, landslides, and other hazards, and cities and counties are required to regulate development within mapped Seismic Hazard Zones.

Uniform Building Code: The California Code of Regulations (CCR) Title 24 is assigned to the California Building Standards Commission, which, by law, is responsible for coordinating all building standards. The California Building Code incorporates by reference the Uniform Building Code with necessary California amendments. The Uniform Building Code is a widely adopted model building code in the United States published by the International Conference of Building Officials. About one-third of the text within the California Building Code has been tailored for California earthquake conditions.

Paleontological Resources: Paleontological resources are the fossilized remains of plants and animals and associated deposits. The Society of Vertebrate Paleontology has identified vertebrate fossils, their taphonomic and associated environmental indicators, and fossiliferous deposits as significant nonrenewable paleontological resources. Botanical and invertebrate fossils and assemblages may also be considered significant resources. CEQA requires that a determination be made as to whether a project would directly or indirectly destroy a unique paleontological resource or site or unique geological feature (CEQA Appendix G(v)(c)). If an impact is significant, CEQA requires feasible measures to minimize the impact (CCR Title 14(3) Section 15126.4 (a)(1)). California Public Resources Code Section 5097.5 (see above) also applies to paleontological resources.

### *3.7.4 Impact Assessment/Environmental Consequences:*

*a) Directly or indirectly create 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.*

According to the Yuba City General Plan, no active earthquake faults are known to exist in Sutter County, although active faults in the region could produce ground motion in Yuba City (Dyett & Bhatia, 2004). The closest known fault zone is the Bear Mountain Fault Zone, located approximately 20 miles northeast of Yuba City (California Geological Survey [CGS], 2015). Potentially active faults do exist in the Sutter Buttes, but those faults are considered small and have not exhibited activity in recent history. Because the distance from the City to the closest known active fault zone is large, the potential for exposure of people or structures to substantial adverse effects from fault rupture is low. Considering that the Building Code incorporates construction standards for minimizing earthquake damage to buildings, and the low potential for a significant earthquake activity in the vicinity, the potential for adverse impacts from an earthquake is less than significant.

*ii. Strong seismic ground shaking?*

In the event of a major regional earthquake, fault rupture or seismic ground shaking could potentially injure people and cause collapse or structural damage to existing and proposed structures. Ground shaking could potentially expose people and property to seismic-related hazards, including localized liquefaction and ground failure. However, all new structures are required to adhere to current California Building Code standards. These standards require adequate design, construction, and maintenance of structures to prevent exposure of people and structures to major geologic hazards. General Plan Implementing Policies 9.2-I-1 through 9.2-I-8 and the building codes reduce the potential impacts to less than significant.

*iii. Seismic-related ground failure, including liquefaction?*

The proposed Project is not located within a liquefaction zone according to the California Department of Conservation's California Geologic Survey regulatory maps. Regardless, all new structures are required to adhere to current California Building Code standards. These standards require adequate design, construction, and maintenance of structures to prevent exposure of people and structures to major

geologic hazards. Therefore, the potential impact from ground failure is less than significant. Also, see Part c) below.

*iv. Landslides?*

According to the Environmental Impact Report prepared for the General Plan, due to the flat topography, erosion, landslides, and mudflows are not considered to be a significant risk in the City limits or within the City's Sphere of Influence.

*b) Result in substantial soil erosion or the loss of topsoil?*

Development of the site that could result from this subdivision would result in all of the site being disturbed during site grading. Even though the area is relatively flat, during site grading a large storm could result in the loss of topsoil into the City/Sutter County drainage system. However, as part of the grading and construction, the applicant will be required to follow Best Management Practices (BMP's) and provide erosion control measures to minimize soil runoff during the construction process. Therefore, impacts from soil erosion will be less than significant.

*c) Be located on a geological 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?*

Per the BSMP EIR, while the BSMP area has a low to moderate potential for ground shaking, it does have a moderate to high potential to experience liquefaction if a large earthquake were to occur. Compliance with regulatory standards described above would reduce potential impacts related to strong seismic shaking and liquefaction to less-than-significant level, and no mitigation measures are required. As the area is essentially flat, there is not a potential for landslides.

*d) Be located on expansive soil, as defined in the California Building Code creating substantial direct or indirect risks to life or property?*

The extreme southwest corner of the Yuba City Sphere of Influence is the only known area with expansive soils. According to the BSMP EIR the entire BSMP area is identified as having low and moderate ratings for linear extensibility. But the implementation of standard geotechnical engineering practices and adherence to building code requirements would reduce potential impacts from expansive soils to less than significant.

*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?*

The 48 new residences that will result from this subdivision will be connected to the City's wastewater collection and treatment system. No new septic systems will be utilized. As such, there will be no new significant impacts caused by new septic systems.

*f) Directly or indirectly destroy a unique paleontological resources or site or unique geologic feature?*

Per the EIR prepared for the BSMP, the Project site is underlain by Quaternary alluvium and is considered to have low potential for exposure of paleontological resources or the presence of unique geologic features. Because the BSMP area was identified as having a low probability of discovery of paleontological resources or unique geologic features and is underlain by a soil type which is generally considered to have a low potential for significant paleontological resources, the impact on paleontological resources would be less than significant.

## 3.8 Greenhouse Gas Emissions

| Table 3.8: Greenhouse Gas Emissions | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | | X | | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | | X | | |

### *3.8.1 Federal Regulatory Setting*

The United States Environmental Protection Agency (USEPA) Mandatory Reporting Rule (40 CFR Part 98), which became effective December 29, 2009, requires that all facilities that emit more than 25,000 metric tons CO2-equivalent per year beginning in 2010, report their emissions on an annual basis. On May 13, 2010, the USEPA issued a final rule that established an approach to addressing GHG emissions from stationary sources under the Clean Air Act (CAA) permitting programs. The final rule set thresholds for GHG emissions that define when permits under the New Source Review Prevention of Significant Deterioration and title V Operating Permit programs are required for new and existing industrial facilities.

In addition, the Supreme Court decision in Massachusetts v. EPA (Supreme Court Case 05-1120) found that the USEPA has the authority to list GHGs as pollutants and to regulate emissions of greenhouse gases (GHG) under the CAA. On April 17, 2009, the USEPA found that CO2, CH4, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride may contribute to air pollution and may endanger public health and welfare. This finding may result in the USEPA regulating GHG emissions; however, to date the USEPA has not propose regulations based on this finding.

### *3.8.2 State & Local Regulatory Setting*

The City's Resource Efficiency Plan as designed under the premise that the City, and the community it represents, is uniquely capable of addressing emissions associated with sources under the City's jurisdiction and that the City's emission reduction efforts should coordinate with the state strategies of reducing emissions in order to accomplish these reductions in an efficient and cost-effective manner. The City developed this document with the following purposes in mind:

- Local Control: The Yuba City Efficiency Plan allows the City to identify strategies to reduce resource consumption, costs, and GHG emissions in all economic sectors in a way that maintains local control over the issues and fits the character of the community. It also may position the City for funding to implement programs tied to climate goals.
- Energy and Resource Efficiency: The Efficiency Plan identifies opportunities for the City to increase energy efficiency and lower GHG emissions in a manner that is most feasible within the community. Reducing energy consumption through increasing the efficiency of energy technologies, reducing energy use, and using renewable sources of energy are effective ways to reduce GHG emissions. Energy efficiency also provides opportunities for cost-savings.
- Improved Public Health: Many of the GHG reduction strategies identified in the Efficiency Plan also have local public health benefits. Benefits include local air quality improvements; creating a more active community through implementing resource-efficient living practices; and reducing health risks, such as heat stroke, that would be otherwise elevated by climate change impacts such as increased extreme heat days.

Demonstrating Consistency with State GHG Reduction Goals—A GHG reduction plan may be used as GHG mitigation in a General Plan to demonstrate that the City is aligned with State goals for reducing GHG emissions to a level considered less than cumulatively considerable.

### *3.8.3 Impact Assessment/Environmental Consequences:*

*a) Generate greenhouse gas emissions, either directly or indirectly, that 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?*

Gases that trap heat in the atmosphere are referred to as greenhouse gases (GHGs) because they capture heat radiated from the sun as it is reflected back into the atmosphere, similar to a greenhouse. The accumulation of GHGs has been implicated as a driving force for Global Climate Change. Definitions of climate change vary between and across regulatory authorities and the scientific community, but in general can be described as the changing of the climate caused by natural fluctuations and the impact of human activities that alter the composition of the global atmosphere. Both natural processes and human activities emit GHGs. Global Climate Change is a change in the average weather on earth that can be measured by wind patterns, storms, precipitation, and temperature. Although there is disagreement as to the speed of global warming and the extent of the impacts attributable to human activities, the vast majority of the scientific community now agrees that there is a direct link between increased emission of GHGs and long-term global temperature. Potential global warming impacts in California may include, but are not limited to, loss in snowpack, sea level rise, more extreme heat days per year, more high ozone days, more large forest fires, and more drought years. Secondary effects are likely to include a global rise in sea level, impacts to agriculture, changes in disease vectors, and changes in habitat and biodiversity. GHG impacts are considered to be exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective (CAPCOA).

The site preparation, grading, and construction of the duplexes and single-family residences will generate GHG emissions due to the use of motorized construction equipment. The emissions will be from construction equipment during the construction of the subdivision. Once completed, vehicle traffic generated by auto use from the new residences will contribute GHG gases. On a cumulative scale, possible

reasonable reductions could be applied to the Project in order to further minimize those impacts. Specifically addressing this proposal, the City's Resource Efficiency Plan (REP) addresses greenhouse gas concerns and provides a description of greenhouse gas reduction measures.

Since the final layout and building design of the residential development proposed under the BSMP have not yet been finalized, it is not yet possible to demonstrate that the proposed BSMP as a whole would achieve the required points in the Consistency Screening Table to demonstrate consistency with the City's REP. Therefore, the buildout of the proposed Project could potentially conflict with the adopted REP and result in a potentially significant impact.

A mitigation measure is included that requires the Project to incorporate the relevant greenhouse gas reduction measures. With this mitigation the impacts from greenhouse gases will be less than significant.

### *3.8.4 Greenhouse Mitigation Measure from the BSMP EIR*

**Mitigation Measure 3.7-1(a): Residential Building Insulation**

Prior to building construction, individual project applicants shall submit to the City building plans demonstrating how all proposed residential buildings include greatly enhanced building insulation materials such as spray foam wall insulated walls R-15 or greater, roof/attic R-38 or higher. The individual project applicants shall also demonstrate how all proposed residential buildings include modestly enhanced window insulation such as 0.4 U-Factor or 0.32 SHGC.

## 3.9 Hazards and Hazardous Materials

| Table 3.9: Hazards and Hazardous Materials | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | | | X | |
| 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? | | | X | |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | | | | X |
| d) Be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment? | | X | | |
| 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? | | | | X |
| f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | | | X | |
| g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires. | | | | X |

### *3.9.1 Federal Regulatory Setting*

U.S. Environmental Protection Agency (USEPA): The USEPA was established in 1970 to consolidate in one agency a variety of federal research, monitoring, standard setting, and enforcement activities to ensure environmental protection. USEPA's mission is to protect human health and to safeguard the natural environment — air, water, and land — upon which life depends. USEPA works to develop and enforce regulations that implement environmental laws enacted by Congress, is responsible for researching and setting national standards for a variety of environmental programs, and delegates to states and tribes the responsibility for issuing permits and for monitoring and enforcing compliance. Where national standards are not met, USEPA can issue sanctions and take other steps to assist the states and tribes in reaching the desired levels of environmental quality.

Federal Toxic Substances Control Act/Resource Conservation and Recovery Act/Hazardous and Solid Waste Act: The Federal Toxic Substances Control Act (1976) and the Resource Conservation and Recovery

Act of 1976 (RCRA) established a program administered by the USEPA for the regulation of the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA was amended in 1984 by the Hazardous and Solid Waste Act (HSWA), which affirmed and extended the "cradle to grave" system of regulating hazardous wastes.

Comprehensive Environmental Response, Compensation, and Liability Act/Superfund Amendments and Reauthorization Act: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980. This law (U.S. Code Title 42, Chapter 103) provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA establishes requirements concerning closed and abandoned hazardous waste sites; provides for liability of persons responsible for releases of hazardous waste at these sites; and establishes a trust fund to provide for cleanup when no responsible party can be identified. CERCLA also enables the revision of the National Contingency Plan (NCP). The NCP (Title 40, Code of Federal Regulation [CFR], Part 300) provides the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, and/or contaminants. The NCP also established the National Priorities List (NPL). CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986.

Clean Water Act/SPCC Rule: The Clean Water Act (CWA) (33 U.S.C. Section 1251 et seq., formerly the Federal Water Pollution Control Act of 1972), was enacted with the intent of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States. As part of the Clean Water Act, the U.S. EPA oversees and enforces the Oil Pollution Prevention regulation contained in Title 40 of the CFR, Part 112 (Title 40 CFR, Part 112) which is often referred to as the "SPCC rule" because the regulations describe the requirements for facilities to prepare, amend and implement Spill Prevention, Control, and

Countermeasure (SPCC) Plans: A facility is subject to SPCC regulations if a single oil storage tank has a capacity greater than 660 gallons, or the total above ground oil storage capacity exceeds 1,320 gallons, or the underground oil storage capacity exceeds 42,000 gallons, and if, due to its location, the facility could reasonably be expected to discharge oil into or upon the "Navigable Waters" of the United States. Other federal regulations overseen by the U.S. EPA relevant to hazardous materials and environmental contamination include Title 40, CFR, Chapter 1, Subchapter D – Water Programs and Subchapter I – Solid

Wastes. Title 40, CFR, Chapter 1, Subchapter D, Parts 116 and 117 designate hazardous substances under the Federal Water Pollution Control Act: Title 40, CFR, Part 116 sets forth a determination of the reportable quantity for each substance that is designated as hazardous. Title 40, CFR, Part 117 applies to quantities of designated substances equal to or greater than the reportable quantities that may be discharged into waters of the United States.

The NFPA 70®: National Electrical Code® is adopted in all 50 states. Any electrical work associated with the Proposed Project is required to comply with the standards set forth in this code. Several federal regulations govern hazards as they are related to transportation issues. They include:

Title 49, CFR, Sections 171-177 (49 CFR 171-177), governs the transportation of hazardous materials, the types of materials defined as hazardous, and the marking of the transportation vehicles.

49 CFR 350-399, and Appendices A-G, Federal Motor Carrier Safety Regulations, address safety considerations for the transport of goods, materials, and substances over public highways.

49 CFR 397.9, the Hazardous Materials Transportation Act of 1974, directs the U.S. Department of Transportation to establish criteria and regulations for the safe transportation of hazardous materials.

### *3.9.2 State Regulatory Setting*

California Environmental Protection Agency (CalEPA): The California Environmental Protection Agency (CalEPA) was created in 1991 by Governor's Executive Order. The six boards, departments, and office were placed under the CalEPA umbrella to create a cabinet-level voice for the protection of human health and the environment and to assure the coordinated deployment of State resources. The mission of CalEPA is to restore, protect, and enhance the environment to ensure public health, environmental quality, and economic vitality under Title 22 of the California Code of Regulations (CCR).

Department of Toxic Substances Control (DTSC): DTSC is a department of Cal/EPA and is the primary agency in California that regulates hazardous waste, cleans-up existing contamination, and looks for ways to reduce the hazardous waste produced in California. DTSC regulates hazardous waste in California primarily under the authority of RCRA and the California Health and Safety Code. Other laws that affect hazardous waste are specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning. Government Code Section 65962.5 (commonly referred to as the Cortese List) includes DTSC listed hazardous waste facilities and sites, DHS lists of contaminated drinking water wells, sites listed by the SWRCB as having UST leaks and which have had a discharge of hazardous wastes or materials into the water or groundwater and lists from local regulatory agencies of sites that have had a known migration of hazardous waste/material.

Unified Program: The Unified Program (codified CCR Title 27, Division 1, Subdivision 4, Chapter 1, Sections 15100- 15620) consolidates, coordinates, and makes consistent the administrative requirements, permits, inspections, and enforcement activities of the following six environmental and emergency response programs:

- Hazardous Waste Generator (HWG) program and Hazardous Waste On-site Treatment activities;
- Aboveground Storage Tank (AST) program Spill Prevention Control and Countermeasure Plan requirements;
- Underground Storage Tank (UST) program;
- Hazardous Materials Release Response Plans and Inventory (HMRRP) program;
- California Accidental Release Prevention (CalARP) program;
- Hazardous Materials Management Plans and Hazardous Materials Inventory Statement (HMMP/HMIS) requirements.

The Secretary of CalEPA is directly responsible for coordinating the administration of the Unified Program. The Unified Program requires all counties to apply to the CalEPA Secretary for the certification of a local unified program agency. Qualified cities are also permitted to apply for certification. The local Certified Unified Program Agency (CUPA) is required to consolidate, coordinate, and make consistent the administrative requirements, permits, fee structures, and inspection and enforcement activities for these six program elements in the county. Most CUPAs have been established as a function of a local environmental health or fire department.

Hazardous Waste Management Program: The Hazardous Waste Management Program (HWMP) regulates hazardous waste through its permitting, enforcement, and Unified Program activities in accordance with California Health and Safety Code Section 25135 et seq. The main focus of HWMP is to ensure the safe storage, treatment, transportation, and disposal of hazardous wastes.

State Water Resources Control Board (SWRCB): The State Water Resources Control Board (SWRCB) was created by the California legislature in 1967. The mission of SWRCB is to ensure the highest reasonable

quality for waters of the State, while allocating those waters to achieve the optimum balance of beneficial uses. The joint authority of water allocation and water quality protection enables SWRCB to provide comprehensive protection for California's waters.

California Department of Industrial Relations – Division of Occupational Safety and Health (Cal OSHA): In California, every employer has a legal obligation to provide and maintain a safe and healthful workplace for employees, according to the California Occupational Safety and Health Act of 1973 (per Title 8 of the CCR). The Division of Occupational Safety and Health (Cal/OSHA) program is responsible for enforcing California laws and regulations pertaining to workplace safety and health and for providing assistance to employers and workers about workplace safety and health issues. Cal/OSHA regulations are administered through Title 8 of the CCR. The regulations require all manufacturers or importers to assess the hazards of substances that they produce or import and all employers to provide information to their employees about the hazardous substances to which they may be exposed.

California Fire Code: The California Fire Code is Part 9 of the California Code of Regulations, Title 24, also referred to as the California Building Standards Code. The California Fire Code incorporates the Uniform Fire Code with necessary California amendments. This Code prescribes regulations consistent with nationally recognized good practice for the safeguarding to a reasonable degree of life and property from the hazards of fire explosion, and dangerous conditions arising from the storage, handling and use of hazardous materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises and provisions to assist emergency response personnel.

### *3.9.3 Local Regulatory Setting*

Sutter County Airport Comprehensive Land Use Plan: The SCACLUP was adopted in April 1994 by the Sacramento Area Council of Governments (SACOG). SACOG is the designated Airport Land Use Commission (ALUC) for Sacramento, Sutter, Yolo, and Yuba Counties under the provisions of the California Public Utilities Code, Chapter 4, Article 3.5, Section 21670.1 Airport Land Use Commission Law. The purpose of the ALUC law is to (1) protect public health, safety, and welfare through the adoption of land use standards that minimize the public's exposure to safety hazards and excessive levels of noise, and (2) Prevent the encroachment of incompatible land uses around public-use airports, thereby preserving the utilities of these airports into the future.

### *3.9.4 Impact Assessment/Environmental Consequences:*

*a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*

*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?*

The primary hazardous materials associated with the proposed subdivision will be those materials associated with grading and construction equipment, which typically includes solvents, oil, and fuel. Provided that these materials are legally and properly used and stored, the proposed Project will not create a significant hazard to the public or the environment. On an ongoing basis the only anticipated hazardous waste would be household hazardous waste. Assuming proper and legal disposal of those wastes there should not be a significant impact from hazardous materials.

*c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

The two closest schools, Riverbend Middle School and Grace Christian Academy, are not within one-quarter mile of the proposed subdivision. Therefore, there is not a potential for any impacts on a school from hazardous materials.

*d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section and, as a result, would create a significant hazard to the public or the environment?*

Per the BSMP EIR implementation of the proposed BSMP would involve the construction of residential, commercial, office and office park, and public facilities, along with utilities as well as road, pedestrian, and bicycle infrastructure, on a currently largely agricultural and undeveloped area to the south of Yuba City that may contain unknown contaminated soil and/or groundwater as a result of previous land uses. During construction, there is the potential to encounter previously unknown contaminated soil, and, if dewatering is needed, groundwater. Construction workers, the public, and the environment could be exposed to hazardous materials and the impact could be potentially significant. This impact would be reduced to less than significant with the implementation of Mitigation Measure 3.8-2, described below.

*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?*

The Project is not located within the Sutter County Airport Comprehensive Land Use Plan, nor is it within two miles of a public use airport.

*f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The Yuba City Fire Department and Police Department serve this area. Neither agency has expressed concern over impacts the Project may have on any emergency response plans. Accordingly, the impacts on emergency response or emergency evacuations plans will be less than significant.

*g) 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?*

The 4.8 acres is currently planted as an orchard and is located on the fringe of the existing Yuba City urbanized area. The site is within the BSMP, which is designed to be part of the urban area. The urban area is surrounded by irrigated agricultural land. The property's non-urban sides consist of irrigated agricultural land which typically is not subject to wildland fires. There are no wildlands on the site or in the immediate vicinity. Accordingly, impacts from exposure to potential wildland fires will be less than significant.

### *3.9.5 Hazards and hazardous Materials Mitigation Measure from the BSMP EIR*

**Mitigation Measure 3.8-2: Conduct Phase I Environmental Site Assessment**

a) Prior to final project design of any individual project pursuant to the BSMP that includes any earth-disturbing activities, the applicant shall submit to the City a Phase I Environmental Site Assessment (Phase I ESA). The Phase I ESA shall be prepared in general accordance with ASTM Standard E1527-13, Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process (or most current edition that is in force at the time of final project design), which is the current industry standard. The Phase I ESA shall include a records review of appropriate federal, State, and local databases within ASTM-listed search distances regarding hazardous materials use, storage, or disposal at the given site, a review of historical topographic maps and aerial photographs, a site reconnaissance, interviews with persons knowledgeable about the sites historical uses, and review of other relevant existing information that could identify the potential existence of Recognized Environmental Conditions,3 including hazardous materials, or contaminated soil or groundwater. If no Recognized Environmental Conditions are identified, then no further action would be required.

b) If Recognized Environmental Conditions are identified and the Phase I ESA recommends further action, the applicant shall conduct the appropriate follow-up actions, which may include further records review, sampling of potentially hazardous materials, and possibly site cleanup. In the event that site cleanup is required, the project shall not proceed until the site has been cleaned up to the satisfaction of the appropriate regulatory agency (e.g., DTSC, RWQCB, or SC EHD) such that the regulatory agency issues a No Further Action letter or equivalent.

## 3.10 Hydrology and Water Quality

| Table 3.10: Hydrology and Water Quality | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality? | | | X | |
| b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impeded sustainable groundwater management of the basin? | | | X | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: | | | | |
| i) result in substantial erosion or siltation on- or off-site? | | | X | |
| ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite? | | | X | |
| iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or | | | X | |
| iv)impede or redirect flood flows? | | | | X |
| d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation? | | | X | |
| e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan? | | | X | |

### *3.10.1 Federal Regulatory Setting*

Clean Water Act: The Clean Water Act (CWA) is intended to restore and maintain the chemical, physical, and biological integrity of the nation's waters (33 CFR 1251). The regulations implementing the CWA protect waters of the U.S. including streams and wetlands (33 CFR 328.3). The CWA requires states to set standards to protect, maintain, and restore water quality by regulating point source and some non-point source discharges. Under Section 402 of the CWA, the National Pollutant Discharge Elimination System (NPDES) permit process was established to regulate these discharges.

Federal Emergency Management Agency (FEMA) Flood Zones: The National Flood Insurance Act (1968) makes available federally subsidized flood insurance to owners of flood-prone properties. To facilitate identifying areas with flood potential, Federal Emergency Management Agency (FEMA) has developed

Flood Insurance Rate Maps (FIRM) that can be used for planning purposes. Flood hazard areas identified on the Flood.

Insurance Rate Map are identified as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood. SFHAs are labeled as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30. Moderate flood hazard areas, labeled Zone B or Zone X (shaded) are also shown on the FIRM, and are the areas between the limits of the base flood and the 0.2-percent-annual-chance (or 500-year) flood. The areas of minimal flood hazard, which are the areas outside the SFHA and higher than the elevation of the 0.2-percent-annual-chance flood, are labeled Zone C or Zone X (unshaded).

### *3.10.2 State Regulatory Setting*

State Water Resources Control Board: The State Water Resources Control Board (SWRCB) is the agency with jurisdiction over water quality issues in the State of California. The WRCB is governed by the Porter-Cologne Water Quality Act (Division 7 of the California Water Code), which establishes the legal framework for water quality control activities by the SWRCB. The intent of the Porter- Cologne Act is to regulate factors which may affect the quality of waters of the State to attain the highest quality which is reasonable, considering a full range of demands and values. Much of the implementation of the SWRCB's responsibilities is delegated to its nine Regional Boards. The Project site is located within the Central Valley Regional Water Quality Control board.

Central Valley Regional Water Quality Control Board (CVRWQCB): administers the NPDES storm water-permitting program in the Central Valley region. Construction activities on one acre or more are subject to the permitting requirements of the NPDES General Permit for Discharges of Storm Water Runoff Associated with Construction Activity (General Construction Permit). Additionally, CVRWQCB is responsible for issuing Waste Discharge Requirements Orders under California Water Code Section 13260, Article 4, Waste Discharge Requirements.

State Department of Water Resources: California Water Code (Sections 10004 et seq.) requires that the State Department of Water Resources update the State Water Plan every five years. The 2013 update is the most current review and included (but is not limited to) the following conclusions:

- The total number of wells completed in California between 1977 and 2010 is approximately 432,469 and ranges from a high of 108,346 wells for the Sacramento River Hydrologic Region to a low of 4,069 wells for the North Lahontan Hydrologic Region.
- Based on the June 2014 California Statewide Groundwater Elevation Monitoring (CASGEM) basin prioritization for California's 515 groundwater basins, 43 basins are identified as high priority, 84 basins as medium priority, 27 basins as low priority, and the remaining 361 basins as very low priority.
- The 127 basins designated as high or medium priority account for 96 percent of the average annual statewide groundwater use and 88 percent of the 2010 population overlying the groundwater basin area.
- Depth-to-groundwater contours were developed for the unconfined aquifer system in the Central Valley. In the Sacramento Valley, the spring 2010 groundwater depths range from less than 10 feet below ground surface (bgs) to approximately 50 feet bgs, with local areas showing maximum depths of as much as 160 feet bgs.

- The most prevalent groundwater contaminants affecting California's community drinking water wells are arsenic, nitrate, gross alpha activity, and perchlorate.

California Government Code 65302 (d): The General Plan must contain a Conservation Element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, river and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any County-wide water agency and with all district and city agencies which have developed, served, controlled, or conserved water for any purpose for the County or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5 if that information has been submitted by the water agency to the city or County. The conservation element may also cover:

- The reclamation of land and waters.
- Prevention and control of the pollution of streams and other waters.
- Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- Prevention, control, and correction of the erosion of soils, beaches, and shores.
- Protection of watersheds.
- The location, quantity, and quality of the rock, sand, and gravel resources.
- Flood control.

Sustainable Groundwater Management Act: On September 16, 2014, Governor Edmund G. Brown Jr. signed historic legislation to strengthen local management and monitoring of groundwater basins most critical to the state's water needs. The three bills, SB 1168 (Pavley) SB 1319 (Pavley) and AB 1739 (Dickinson) together makeup the Sustainable Groundwater Management Act. The Sustainable Groundwater Management Act comprehensively reforms groundwater management in California. The intent of the Act is to place management at the local level, although the state may intervene to manage basins when local agencies fail to take appropriate responsibility. The Act provides authority for local agency management of groundwater and requires creation of groundwater sustainability agencies and implementation of plans to achieve groundwater sustainability within basins of high and medium priority.

### *3.10.3 Impact Assessment/Environmental Consequences:*

*a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?*

BSMP EIR summarizes that adherence to BMPs as a condition of the NPDES permit would substantially reduce or prevent waterborne pollutants from entering receiving waters per CVRWQCB standards during construction. Compliance with City of Yuba City Stormwater Management and Discharge Control Ordinance and the SWMP requirements would protect water quality during project operation and would substantially reduce or prevent waterborne pollutants from entering receiving waters per CVRWQCB standards. Therefore, impacts related to violation of water quality standards or waste discharge requirements or otherwise substantially degrading water quality as a result of construction or operation of elements of the BSMP are considered less than significant.

*b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impeded sustainable groundwater management of the basin?*

BSMP EIR summarizes that: proposed construction activities would not include site dewatering or other forms of groundwater extraction. Soil compaction and placement of equipment and construction materials on the site during construction may temporarily interfere with groundwater recharge. Temporary soil compaction and placement of construction materials on the site would not be of a sufficient scale to result in a net deficit in aquifer volume or lowering of the local groundwater table. Despite substantial increases in impervious surfaces as a result of development pursuant to the proposed BSMP, groundwater recharge within and along Gilsizer Slough and the Feather River would not be impeded during project operation. Therefore, impacts on groundwater recharge during construction and operation of development under the proposed BSMP would be less than significant.

*c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:*

*i) result in substantial erosion or siltation on- or off-site?*

*ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?*

*iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*

BSMP EIR summarizes that construction of projects within the BSMP would employ a site-specific storm water plan for erosion and sediment control to prevent flooding on- or off-site during construction activities in compliance with the NPDES Construction General Permit and Yuba City ordinances. The proposed BSMP would include construction of a stormwater drainage system designed to maintain stormwater flows below current levels during all storms and would not exacerbate on- or off-site drainage or flooding problems. Design of the system would be required to meet all City stormwater and flood prevention ordinances prior to approval of the Project and building permits. Therefore, impacts as a result of altering the existing drainage pattern of the site or area or a substantial increase in the rate or amount of surface runoff in a manner which could result in flooding on- or off-site are considered less than significant.

*Iv) impede or redirect flood flows?*

According to the Federal Emergency Management Agency this portion of the City is outside of the 100-year flood plain. This is due to the existing levee system that contains seasonally high-water flows from the nearby Feather River from flooding areas outside of the levee system. Additional construction within the City that is outside of the levee system does not impact the levee system and therefore does not increase, impede, or otherwise have any effect on the highwater flows within the levee system. Therefore, the Project's impacts on high-water flows within the Feather River levee system will be less than significant.

*d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?*

According to the Federal Emergency Management Agency, this portion of the City is outside of the 100-year flood plain. The City is not close to the ocean or any big lakes so a seiche is unlikely to happen in or near the City. The City is located inland from the Pacific Ocean, so people or structures in the City would not be exposed to inundation by tsunami. Mudflows and landslides are unlikely to happen due to the relatively flat topography within the project area. Thus, it is unlikely that the Project site would be subject to inundation by a seiche, tsunami, or mudflow or landslide. Therefore, there is no potential for significant impacts from any of these types of events.

*e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

Regarding impacts on a groundwater management plan, the City primarily utilizes surface water from the Feather River for its water supply, so any impact on groundwater would be less than significant. Regarding water quality, as noted in Part a) above, all new construction is required to utilize of Best Management Practices. Assuming all required standards are met the impacts to stormwater runoff water from this subdivision will be less than significant. The City primarily utilizes surface water for its water source so the impacts on groundwater quality and sustainable management would be less than significant.

## 3.11 Land Use and Planning

Table 3:11: Land Use and Planning

| Would the project: | | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|---|
| a) | Physically divide an established community? | | | X | |
| b) | Cause a significant environmental impact due to a conflict with any land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect? | | | | X |

### *3.11.1 Environmental Setting/Affected Environment*

The property is utilized as an orchard and there are no permanent buildings on it. The site abuts several single-family residential uses along its north and east sides, with orchards on the west and south sides. The BSMP designates this property for medium density residential development with an allowed density range of 6-14 residences per acre, which is consistent with consistent with duplexes and smaller lot single-family residential development. This proposal will be approximately 10 residences per acre.

### *3.11.2 Federal Regulatory Setting*

There are no federal or state regulations pertaining to land use and planning relevant to the proposed Project.

### *3.11.3 Local Regulatory Setting*

Yuba City General Plan, Land Use Element: The Land Use Element of the General Plan establishes guidance for the ultimate pattern of growth in the City's Sphere of Influence. It provides direction regarding how lands are to be used, where growth will occur, the density/intensity and physical form of that growth, and key design considerations.

### *3.11.4 Impact Assessment/Environmental Consequences:*

*a) Physically divide an established community?*

The development of this property would be an extension south of the urban area. As the site lies between the urban area and rural residential area, it will not divide either.

The adoption of the BSMP and the annexation into Yuba City recognized that this area would convert from an unincorporated rural residential/agricultural area to a suburban community. During this transition existing residences will see change to the area. However, the BSMP contains policies to make minimize the impacts to the neighbors. This subdivision is consistent with the General Plan, all of the policies and programs contained in the BSMP, and the use fits the zoning applied to the property. Therefore the impacts of this proposal on dividing the community will be less than significant.

*b) Cause a significant environmental impact due to a conflict with any land use plan, policy or regulation adopted for the purpose of avoiding or mitigating an environmental effect?*

As established in the BSMP EIR, the Project is consistent with the General Plan, and the Project will be required to meet all BSMP use standards, policies, and guidelines, including the design guidelines. As such there are no conflicts with policies or programs that would cause any environmental impacts. Adherence to existing Yuba City General Plan policies and BSMP Development Standards and Guidelines designed to minimize or eliminate land use conflicts so that proposed development within the BSMP area would be compatible with other adjacent BSMP land uses. As such the impacts from conflicts with any land use plan, policy or regulation would be less than significant.

## 3.12 Mineral Resources

| Table 3-12: Mineral Resources | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| 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? | | | | X |
| 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? | | | | X |

### *3.12.1 Federal Regulatory Setting*

There are no federal regulations pertaining to mineral resources relevant to the proposed Project.

### *3.12.2 State Regulatory Setting*

California Surface Mining and Reclamation Act of 1975: Enacted by the State Legislature in 1975, the Surface Mining and Reclamation Act (SMARA), Public Resources Code Section 2710 et seq., insures a continuing supply of mineral resources for the State. The act also creates surface mining and reclamation policy to assure that:

- Production and conservation of minerals is encouraged;
- Environmental effects are prevented or minimized;
- Consideration is given to recreational activities, watersheds, wildlife, range and forage, and aesthetic enjoyment;
- Mined lands are reclaimed to a useable condition once mining is completed; and
- Hazards to public safety both now and in the future are eliminated.

Areas in the State (city or county) that do not have their own regulations for mining and reclamation activities rely on the Department of Conservation, Division of Mines and Geology, Office of Mine Reclamation to enforce this law. SMARA contains provisions for the inventory of mineral lands in the State of California.

The State Geologist, in accordance with the State Board's Guidelines for Classification and Designation of Mineral Lands, must classify Mineral Resource Zones (MRZ) as designated below:

- MRZ-1. Areas where available geologic information indicates that there is minimal likelihood of significant resources.
- MRZ-2. Areas underlain by mineral deposits where geologic data indicate that significant mineral deposits are located or likely to be located.
- MRZ-3. Areas where mineral deposits are found but the significance of the deposits cannot be evaluated without further exploration.

- MRZ-4. Areas where there is not enough information to assess the zone. These are areas that have unknown mineral resource significance.

SMARA only covers mining activities that impact or disturb the surface of the land. Deep mining (tunnel) or petroleum and gas production is not covered by SMARA.

#### *3.12.3 Impact Assessment/Environmental Consequences:*

*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?*

The property contains no known mineral resources and there is little opportunity for mineral resource extraction. The Yuba City General Plan does not recognize any mineral resource zone within the City limits, and no mineral extraction facilities currently exist within the City. Additionally, the site has nearby residential uses, which generally is considered incompatible with mineral extraction facilities. As such the Project will not have an impact on mineral resources.

## 3.13 Noise

Table 3.13: Noise

| Would the project result in: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | | | X | |
| b) Generation of excessive ground borne vibration or ground borne noise levels? | | | X | |
| c) For a project located within the vicinity of a private airstrip or 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? | | | | X |

#### *3.13.1 Environmental Setting/Affected Environment for Noise*

Noise can be generally defined as unwanted sound. Sound, traveling in the form of waves from a source, exerts a sound pressure level (referred to as sound level) which is measured in decibels (dB), with 0 dB corresponding roughly to the threshold of human hearing and 120 to 140 dB corresponding to the threshold of pain.

Sound pressure fluctuations can be measured in units of hertz (Hz), which correspond to the frequency of a particular sound. Typically, sound does not consist of a single frequency, but rather a broad band of frequencies varying in levels of magnitude (sound power). The sound pressure level, therefore, constitutes the additive force exerted by a sound corresponding to the frequency/sound power level spectrum.

The typical human ear is not equally sensitive to all frequencies of the audible sound spectrum. As a consequence, when assessing potential noise impacts, sound is measured using an electronic filter that de-emphasizes the frequencies below 1,000 Hz and above 5,000 Hz in a manner corresponding to the human ear's decreased sensitivity to low and extremely high frequencies instead of the frequency mid-range. This method of frequency weighting is referred to as A-weighting and is expressed in units of A-weighted decibels (dBA). Frequency A-weighting follows an international standard methodology of frequency de-emphasis and is typically applied to community noise measurements.

Noise exposure is a measure of noise over a period of time. Noise level is a measure of noise at a given instant in time. Community noise varies continuously over a period of time with respect to the contributing sound sources of the community noise environment. Community noise is primarily the product of many distant noise sources, which constitute a relatively stable background noise exposure, with the individual contributors unidentifiable. The background noise level changes throughout a typical day, but does so gradually, corresponding with the addition and subtraction of distant noise sources such as traffic and atmospheric conditions. What makes community noise constantly variable throughout a day, besides the slowly changing background noise, is the addition of short duration single event noise sources (e.g., aircraft flyovers, motor vehicles, sirens), which are readily identifiable to the individual receptor. These successive additions of sound to the community noise environment vary the community noise level from instant to instant, requiring the measurement of noise exposure over a period of time to legitimately characterize a community noise environment and evaluate cumulative noise impacts.

### *3.13.2 Environmental Setting/Affected Environment for Groundbourne Vibration*

Vibration is the periodic oscillation of a medium or object. Vibration sources may be continuous, such as factory machinery, or transient, such as explosions. As is the case with airborne sound, ground borne vibrations may be described by amplitude and frequency. Vibration amplitudes are usually expressed in peak particle velocity (PPV), or root mean squared (RMS), as in RMS vibration velocity. The PPV and RMS (VbA) vibration velocity are normally described in inches per second (in/sec). PPV is defined as the maximum instantaneous positive or negative peak of a vibration signal and is often used in monitoring of blasting vibration because it is related to the stresses that are experienced by buildings.

Although PPV is appropriate for evaluating the potential for building damage, it is not always suitable for evaluating human response. As it takes some time for the human body to respond to vibration signals, it is more prudent to use vibration velocity when measuring human response. The typical background vibration velocity level in residential areas is approximately 50 VdB. Groundborne vibration is normally perceptible to humans at approximately 65 VdB. For most people, a vibration-velocity level of 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible levels.

Typical outdoor sources of perceptible ground borne vibration are construction equipment, steel-wheeled trains, and traffic on rough roads. Construction vibrations can be transient, random, or continuous. The approximate threshold of vibration perception is 65 VdB, while 85 VdB is the vibration acceptable only if there are an infrequent number of events per day.

### *3.13.3 Federal Regulatory Setting*

Federal Vibration Policies: The Federal Railway Administration (FRA) and the Federal Transit Administration (FTA) have published guidance relative to vibration impacts. According to the FRA, fragile buildings can be exposed to ground-borne vibration levels of 90 VdB without experiencing structural damage. The FTA has identified the human annoyance response to vibration levels as 75 VdB.

### *3.13.4 State Regulatory Setting*

California Noise Control Act: The California Noise Control Act was enacted in 1973 (Health and Safety Code §46010 et seq.), and states that the Office of Noise Control (ONC) should provide assistance to local communities in developing local noise control programs. It also indicates that ONC staff would work with the Department of Resources Office of Planning and Research (OPR) to provide guidance for the preparation of the required noise elements in city and county General Plans, pursuant to Government Code § 65302(f). California Government Code § 65302(f) requires city and county general plans to include a noise element. The purpose of a noise element is to guide future development to enhance future land use compatibility.

Title 24 – Sound Transmission Control: Title 24 of the California Code of Regulations (CCR) codifies Sound Transmission Control requirements, which establishes uniform minimum noise insulation performance standards for new hotels, motels, dormitories, apartment houses, and dwellings other than detached single-family dwellings. Specifically, Title 24 states that interior noise levels attributable to exterior sources shall not exceed 45 dBA CNEL in any habitable room of new dwellings Title 24, Part 2 requires an acoustical report that demonstrates the achievements of the required 45 dBA CNEL. Dwellings are designed so that interior noise levels will meet this standard for at least ten years from the time of building permit application.

### *3.13.5 Local Regulatory Setting*

The **City of Yuba City General Plan** presents the vision for the future of Yuba City and outlines several guiding policies and policies relevant to noise.

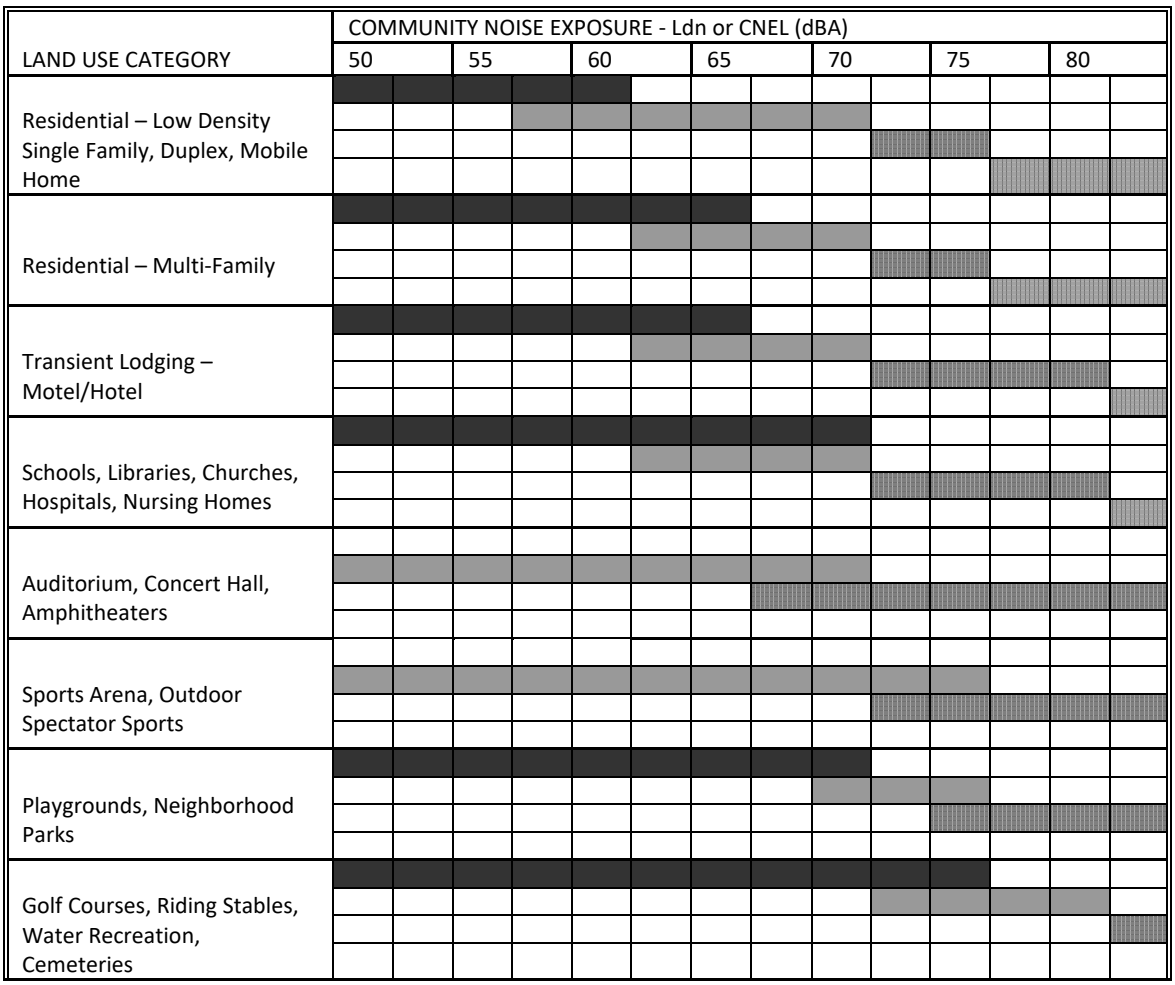
The following goals and policies from the City of Yuba City General Plan are relevant to noise.

Guiding Policies

- 9.1-G-1 Strive to achieve an acceptable noise environment for the present and future residences of Yuba City.
- 9.1-G-2 Incorporate noise considerations into land use planning decisions and guide the location and design of transportation facilities to minimize the effects of noise on adjacent land uses.
- Implementing Policies
- 9.1-I-1 Require a noise study and mitigation for all projects that have noise exposure greater than “normally acceptable” levels. Noise mitigation measures include, but are not limited to, the following actions:
- Screen and control noise sources, such as parking and loading facilities, outdoor activities, and mechanical equipment,
- Increase setbacks for noise sources from adjacent dwellings,

- Retain fences, walls, and landscaping that serve as noise buffers,
- Use soundproofing materials and double-glazed windows, and
- Control hours of operation, including deliveries and trash pickup, to minimize noise impacts.
- 9.1-I-3 In making a determination of impact under the California Environmental Quality Act (CEQA), consider an increase of four or more dBA to be "significant" if the resulting noise level would exceed that described as normally acceptable for the affected land use in Figure 5.
- 9.1-I-4 Protect especially sensitive uses, including schools, hospitals, and senior care facilities, from excessive noise, by enforcing “normally acceptable” noise level standards for these uses.
- 9.1-I-5 Discourage the use of sound walls. As a last resort, construct sound walls along highways and arterials when compatible with aesthetic concerns and neighborhood character. This would be a developer responsibility.
- 9.1-I-6 Require new noise sources to use best available control technology (BACT) to minimize noise from all sources.
- 9.1-I-7 Minimize vehicular and stationary noise sources and noise emanating from temporary activities, such as construction.
-

*Figure 1: Noise Exposure*



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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Office Buildings, Business, Commercial and Professional | | | | | | | | | | | | | | |
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| Industrial, Manufacturing, Utilities, Agriculture | | | | | | | | | | | | | | |
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|---|---|
| | Normally Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements. |
| | Conditionally Acceptable: New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features are included in the design. Conventional construction, but with closed windows and fresh air supply systems or air conditioning will normally suffice. |
| | Normally Unacceptable: New construction or development should be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirement must be made and needed noise insulation features included in the design. |
| | Clearly Unacceptable: New construction or development generally should not be undertaken. |

*Source: State of California, Governor's Office of Planning and Research, 2003. General Plan Guidelines.*

**City of Yuba City Municipal Code:** Title 4, Chapter 17, Section 4-17.10(e) of the Yuba City Municipal Code prohibits the operation of noise-generating construction equipment before 6:00 a.m. or after 9:00 p.m. daily, except Sunday and State or federal holidays when the prohibited time is before 8:00 a.m. and after 9:00 p.m.

### *3.13.6 Impact Assessment/Environmental Consequences:*

*a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies established in the local general plan or noise ordinance, or applicable standards of other agencies?*

There are existing neighboring residences to this Project site. Per the BSMP EIR the construction activities associated with the proposed BSMP would consist of site grading, excavation for infrastructure and building foundations, building construction, and paving and landscaping installation. Since construction activities within the BSMP would occur within the City of Yuba City's allowed construction hours, construction noise as proposed under the proposed BSMP would not conflict with the City's noise standards. However, construction within the proposed BSMP could expose nearby sensitive land uses to noise levels that would be considered a substantial temporary noise increase over the existing ambient levels. Therefore, as stated in the BSMP EIR noise generated during the construction of the proposed BSMP could result in a potentially significant impact.

Implementation of Mitigation Measure 3.11-1 would reduce construction noise to the extent feasible. Restricting heavy-duty equipment operations in close proximity to buildings, the use of temporary barriers and hydraulic or electric powered impact tools would substantially reduce noise levels at adjacent sensitive receptors. These measures would minimize interior noise and associated sleep disturbance at nearby receptors during excavation, and construction. Therefore, after mitigation, this impact would be considered less than significant during the short-term duration of Project-specific construction activities.

*b) Generation of excessive ground borne vibration or ground borne noise levels?*

Per the BSMP EIR, the construction activities that would be associated with the proposed BSMP would not include construction activities known to generate high vibration levels, such as impact pile driving or blasting. Onsite grading and building construction activities would be the highest sources of construction vibration, but since there would be no existing or future sensitive receptors or structures located in close proximity to future construction sites, buildings and residents would not be exposed to vibration levels that could result in either building damage or human annoyance. Therefore, construction vibration is considered to be a less than significant impact.

*c) For a project located within the vicinity of a private airstrip or 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?*

The sensitive land uses proposed within BSMP would be located approximately 1.3 miles outside of the Sutter County Airport's 65 dBA CNEL noise contour and 1.4 miles outside of the Yuba County Airport's 55 dBA CNEL noise contour at the closest point. Sensitive receptors proposed within the BSMP would not be exposed to aircraft noise that would exceed the normally compatible noise thresholds established in the Sutter County Airport CLUP and Yuba County Airport CLUP. Therefore, the new residents would not be expose to aircraft noise, resulting in a less than significant impact.

### *3.13.6 Noise Mitigation Measure from the BSMP EIR*

**Mitigation Measure 3.11-1: Construction Noise Measures**

Individual project applicants of new development (excluding renovation of existing buildings) shall require construction contractors to implement the following measures during all phases of project construction:

a) Whenever stationary noise sources – such as generators and compressors – are used within light of sight to occupied residences (on or offsite), temporary barriers shall be constructed around the source to shield the ground floor of the noise-sensitive uses. These barriers shall be of ¾-inch Medium Density Overlay (MDO) plywood sheeting, or other material of equivalent utility and appearance to achieve a Sound Transmission Class of STC-30, or greater, based on certified sound transmission loss data taken according to ASTM Test Method E90 or as approved by the City of Yuba City Building Official.

b) Construction equipment staging areas shall be located as far as feasible from residential areas while still serving the needs of construction contractors.

c) Equipment and trucks used for construction will use the industry standard noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating a shields or shrouds, wherever feasible).

d) Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically- or electrically-powered where feasible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dB. External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dB. Quieter procedures, such as use of drills rather than impact tools, shall be used whenever feasible.

## 3.14 Population and Housing

| Table 4-14: Population and Housing | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Induce substantial unplanned 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)? | | | X | |
| b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere? | | | | X |

### *3.14.1 Environmental Setting/Affected Environment*

The property is utilized as an orchard and there are no permanent buildings on it. The site abuts several single-family residential uses along its north and east sides, with orchards on the west and south sides. The BSMP designates this property for medium density residential development with an allowed density range of six to 14 residences per acre, which is consistent with consistent with duplexes and smaller lot single-family residential development. This proposal will be approximately 10 residences per acre.

### *3.14.2 Federal Regulatory Setting*

There are no federal regulations, plans, programs, or guidelines associated with population or housing that are applicable to the proposed Project.

### *3.14.3 State Regulatory Setting*

California law (Government Code Section 65580, et seq.) requires cities and counties to include a housing element as a part of their general plan to address housing conditions and needs in the community. Housing elements are prepared approximately every five years (eight following implementations of Senate Bill [SB] 375), following timetables set forth in the law. The housing element must identify and analyze existing and projected housing needs and "make adequate provision for the existing and projected needs of all economic segments of the community," among other requirements. The City adopted its current Housing Element in 2013.

### *3.14.4 Regional Regulatory Setting*

State law mandates that all cities and counties offer a portion of housing to accommodate the increasing needs of regional population growth. The statewide housing demand is determined by the California Department of Housing and Community Development (HCD), while local governments and councils of governments decide and manage their specific regional and jurisdictional housing needs and develop a regional housing needs assessment (RHNA).

In the greater Sacramento region, which includes the City of Yuba City, SACOG has the responsibility of developing and approving an RHNA and a Regional Housing Needs Plan (RHNP) every eight years (Government Code, Section 65580 et seq.). This document has a central role of distributing the allocation of housing for every county and city in the SACOG region. Housing needs are assessed for very low income, low income, moderate income, and above moderate households

As described above, SACOG is the association of local governments that includes Yuba City, along with other jurisdictions comprising the six counties in the greater Sacramento region. In addition to preparing the Metropolitan Transportation Plan and Sustainable Communities Strategy for the region, SACOG approves the distribution of affordable housing in the region through its RHNP. SACOG also assists in planning for transit, bicycle networks, clean air and serves as the Airport Land Use Commission for the region.

### *3.14.5 Impact Assessment/Environmental Consequences:*

*a) Induce substantial unplanned 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)?*

As discussed in the BSMP EIR, population increases and decreases are not, in and of themselves, considered physical environmental effects. Physical environmental effects that would be a result of population growth within the BSMP area are examined in the appropriate environmental resource sections in the BSMP EIR.

Specifically to this Project, the proposal is for 21 new duplexes and six new single-family residences. The General Plan designates this property for medium density residential development, as is proposed. The General Plan Housing Element, which is the primary City document that provides housing policy, favors more residential development, especially at the higher density that is proposed as this tends to provide more affordable housing. The BSMP, which provides very detailed land use planning for this area, designates this property for this type of residential use and density. The EIR prepared for the BSMP provides a detailed analysis of the potential environmental impacts that my result from the development of the BSMP. Review of the proposal indicates that all of the BSMP polices, programs and standards will be met. As such, the area has been planned in detail, and this Project is consistent with the BSMP. The impacts from unplanned growth will be less than significant.

*b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*

There will be no residences removed as part of this Project. Therefore, there will be no impact.

## 3.15 Public Services

| Table 3.15: Public Services | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered government 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: | | | | |
| i) Fire protection? | | | X | |
| ii) Police protection? | | | X | |
| iii) Schools? | | | X | |
| iv) Parks? | | | X | |
| v) Other public facilities? | | | X | |

### *3.15.1 Environmental Setting/Affected Environment*

Law enforcement for the proposed new development will be provided by the Yuba City Police Department. Fire protection is provided by the Yuba City Fire Department. Nearby parks and other urban services that may be utilized by new residents, including streets, water, sewer stormwater drainage will also be provided by Yuba City. The nearby schools are part of the Yuba City Unified School District. as well as a private school.

### *3.15.2 Federal Regulatory Setting*

National Fire Protection Association: The National Fire Protection Association (NFPA) is an international nonprofit organization that provides consensus codes and standards, research, training, and education on fire prevention and public safety. The NFPA develops, publishes, and disseminates more than 300 such codes and standards intended to minimize the possibility and effects of fire and other risks. The NFPA publishes the NFPA 1, Uniform Fire Code, which provides requirements to establish a reasonable level of fire safety and property protection in new and existing buildings.

### *3.15.3 State Regulatory Setting*

California Fire Code and Building Code: The 2013 California Fire Code (Title 24, Part 9 of the California Code of Regulations) establishes regulations to safeguard against hazards of fire, explosion, or dangerous conditions in new and existing buildings, structures, and premises. The Fire Code also establishes requirements intended to provide safety and assistance to fire fighters and emergency responders during emergency operations. The provision of the Fire Code includes regulations regarding fire-resistance rated construction, fire protection systems such as alarm and sprinkler systems, fire service features such as fire

apparatus access roads, fire safety during construction and demolition, and wildland urban interface areas.

California Health and Safety Code (HSC): State fire regulations are set forth in Sections 13000 et seq. of the California HSC, which includes regulations for building standards (as set forth in the CBC), fire protection and notification systems, fire protection devices such as extinguishers, smoke alarms, childcare facility standards, and fire suppression training.

California Master Mutual Aid Agreement: The California Master Mutual Aid Agreement is a framework agreement between the State of California and local governments for aid and assistance by the interchange of services, facilities, and equipment, including but not limited to fire, police, medical and health, communication, and transportation services and facilities to cope with the problems of emergency rescue, relief, evacuation, rehabilitation, and reconstruction.

### *3.15.4 Impact Assessment/Environmental Consequences:*

*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 government 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: As discussed in the BSMP EIR, the proposed BSMP has been designed to allow for residential and non-residential growth that would be consistent with the growth anticipated in the Yuba City General Plan. This growth would not exceed the demand of the fire stations already anticipated within the 2035 General Plan.

All new development within the BSMP site would be required to pay the appropriate taxes and fees to finance the City's General Fund. In addition, the City would require establishment of a CFD for BSMP development to provide the funding necessary to provide for the additional staff and equipment. Together, these funds would provide the necessary funding for the fire protection staffing increases that will be needed. As a result of the programs discussed above, the BSMP EIR concludes that YCFD would be able to maintain a 6-minute response time with implementation of the BSMP and would not result in the construction of new or expanded facilities related to the provision of fire protection. This impact would be less than significant.

In regard to this Project specifically, the Fire Department reviewed the proposal and did not express safety concerns.

Police Protection: The EIR for the BSMP anticipated that the development of the specific plan area would necessitate the need for approximately eight new officers, three new vehicles, and one new dispatcher and Community Services Officer (CSO), along with the supporting vehicle and equipment. It is not known whether this would cause the need for new facilities or, if so, where those facilities would be located. To the extent that the facilities would be constructed within the BSMP site, the environmental resource sections in the BSMP EIR disclosed the environmental impacts of all development that could occur pursuant to the proposed BSMP. In the event that such facilities were constructed elsewhere in Yuba City, the new or expanded police facilities would require environmental review prior to development. Any potential impacts would be disclosed and mitigated, if feasible, through this process. The identification of any specific impacts that could remain significant and unavoidable would be speculative at this time.

Therefore, the increase in demand for additional police protection facilities would result in a less-than-significant impact.

The Police Department reviewed this proposal and did not express concerns. Since all new housing will pay impact fees that intended to offset the cost of additional police facilities and equipment resulting from this growth, the impacts on police services will be less than significant.

Schools: The BSMP EIR indicated that build-out of the BSMP area would generate approximately 1306 new students to the Yuba City Unified School District. The staff indicated that existing school facilities within the district were adequate to serve the new student needs of the initial developments. Once the initial development is completed a new school site would likely be needed. The BSMP identified a potential site within the BSMP area and the EIR analyzed the impacts that would result from that site.

The developers of BSMP have come to an agreement with YCUSD that the plan area will annex into YCUSD Community Facilities District (CFD) No. 1, which funds school improvements. The YCUSD CFD No. 1 rate structure includes a component that replaces school fees, so properties will be subject to the CFD but will not be required to pay school impact fees.

While environmental impacts related to the development of a school are evaluated in this EIR, the school would be subject to additional CEQA review when a more definitive school site development proposal is prepared. As a result, the proposed BSMP would not result in a contribution to the need for school facilities or to the impacts of constructing these facilities. Therefore, the cumulative impact of providing adequate school facilities would be less than significant.

Parks: The BSMP EIR states that the BSMP is consistent with the goals and policies presented in the Yuba City General Plan for parkland as the BSMP develops on an incremental basis over time in response to market demand, parkland availability and park development caused by the approximately 6,719 new residents. These parks and trails would be designed to meet City standards and would encourage a wide variety of recreational activities, including walking, bicycling, and other forms of sports and exercise. The BSMP also contributes adequate funding by paying development fees and contributing to a CFD. In addition, the continued development of the Feather River Parkway would provide additional active parklands near the BSMP site that serve to benefit the wider region. For these reasons, the impacts on parkland would be less than significant.

Other Public Facilities: The Project will be connected to City water and wastewater systems. Each new residential connection to those systems must pay connection fees that are utilized for expansion of the respective treatment plants. The City also collects impact fees for County services that are provided to the new residences, such as the library system and justice system.

Accordingly, the Project will have a less than significant impact with regard to the provision of public services.

## 3.16 Recreation

| Table 3-16: Recreation | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| 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? | | | X | |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | | | | X |

### *3.16.1 Environmental Setting/Affected Environment*

Yuba City has 22 City-owned parks and recreational areas, managed by the City's Parks and Recreation Department. This consists of four community parks, 15 neighborhood parks, and three passive or mini parks.

### *3.16.2 Federal Regulatory Setting*

There are no federal regulations regarding parks and open space that are applicable to the proposed Project.

### *3.16.3 State Regulatory Setting*

State Public Park Preservation Act: The primary instrument for protecting and preserving parkland is the Public Park Preservation Act of 1971. Under the PRC section 5400-5409, cities and counties may not acquire any real property that is in use as a public park for any non-park use unless compensation or land, or both, are provided to replace the parkland acquired. This provides no net loss of parkland and facilities.

Quimby Act: California Government Code Section 66477, referred to as the Quimby Act, permits local jurisdictions to require the dedication of land and/or the payment of in-lieu fees solely for park and recreation purposes. The required dedication and/or fee are based upon the residential density and housing type, land cost, and other factors. Land dedicated and fees collected pursuant to the Quimby Act may be used for developing new or rehabilitating existing park or recreational facilities.

### *3.16.4 Local Regulatory Setting*

The Yuba City General Plan and the City's Parks Master Plan provide a goal of providing 5 acres of public parkland per 1,000 residents, while it also requires 1 acre of Neighborhood Park for every 1,000 residents. The City's development impact fee program collects fees for new development which is allocated for the acquisition and development of open space in the City.

### *3.16.5 Impact Assessment/Environmental Consequences:*

*a) Would the project 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?*

The BSMP EIR provides that the proposed BSMP would facilitate up to 2,517 new housing units and yield 6,828 new residents in the BSMP area. Using the parkland demand standard of 5 acres of parkland (plus 1 acre of on-site neighborhood park) per 1,000 residents, the proposed BSMP would generate a demand for almost 41 acres of parklands.

While the need for almost 41 acres of parkland will be generated by development of the BSMP area, the BSMP identifies approximately 84 acres of eligible parks and open space, of which the City has given credit for 21 acres of on-site parkland, and the remaining is open space, including passive recreation areas along Gilsizer Slough. A total of 65.39 acres of park credit was granted. The proposed BSMP would also contribute to a new CFD established for the BSMP. In addition, the continued development of the Feather River Parkway would provide additional active parklands near the BSMP site that serves to benefit the wider region. For these reasons, the impact on recreational facilities would be less than significant.

*b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?*

The Project does not propose to provide any recreational facilities, thus there will be no impact.

## 3.17 Transportation/Traffic

Table 4-17: Transportation Recreation

| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities? | | | X | |
| b) Conflict or be inconsistent with CEQA Guidelines section 15064.3 subdivision (b)? | | | X | |
| c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | | | X | |
| d) Result in inadequate emergency access? | | | X | |

### *3.17.1 Federal Regulatory Setting*

Federal Highway Administration: FHWA is the agency of the U.S. Department of Transportation (DOT) responsible for the Federally funded roadway system, including the interstate highway network and portions of the primary State highway network. FHWA funding is provided through the Safe, Accountable,

Flexible, Efficiency Transportation Equity Act: A Legacy for Users (SAFETEA-LU). SAFETEA- LU can be used to fund local transportation improvement projects, such as projects to improve the efficiency of existing roadways, traffic signal coordination, bikeways, and transit system upgrades.

Several federal regulations govern transportation issues. They include:

- Title 49, CFR, Sections 171-177 (49 CFR 171-177), governs the transportation of hazardous materials, the types of materials defined as hazardous, and the marking of the transportation vehicles.
- Title 49 CFR 350-399, and Appendices A-G, Federal Motor Carrier Safety Regulations, address safety considerations for the transport of goods, materials, and substances over public highways.

### *3.17.2. State Regulatory Setting*

The measurement of the impacts of a project's traffic is set by the CEQA Guidelines. Section 15064.3 of the Guidelines states that vehicle miles traveled (VMT) is the most appropriate measure of transportation impacts. VMT is a metric which refers to the amount of distance of automobile traffic that is generated by a project. Per the Guidelines "Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact." "Projects that decrease vehicle miles traveled compared to existing conditions should be presumed to have a less than significant environmental impact."

The CEQA Guidelines also states that the lead agency (Yuba City) may "choose the most appropriate methodology to evaluate a project's vehicle miles traveled …". As this is a new form of calculating significant traffic events, the City has not yet determined its own methodology to calculate levels of significance for VMT. Until that methodology is determined, for purposes of this initial study the information provided by the Sacramento Council of Governments (SACOG) and the CA Office of Planning and Research is utilized. A review of these studies indicates several factors that may be utilized for determining levels of significance. One is that if the project will generate less than 110 vehicle trips per day, it is assumed that with the small size of the project, the impact is less than significant. A second criteria is that for a project, on a per capita or per employee basis, the VMT will be at least 15 percent below that of existing development is a reasonable threshold for determining significance.

As this is a new methodology, future projects may utilize different criterion as they become available.

### *3.17.3. Impact Assessment/Environmental Consequences:*

*a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?*

The BSMP EIR divided this question into several specific traffic concerns that are summarized below with the appropriate mitigation measure and level of significance after mitigation. Traffic issues considered less than significant in the EIR are not further addressed here as it was determined that this subdivision, is consistent with the BSMP land uses and development densities, transportation and traffic policies and programs, so no increases in those impacts were found. Therefore, this subdivision does not increase the level of impact over what was anticipated by the BSMP EIR. As this subdivision is only responsible for its fair share of the impact the mitigations called for, this section requires the applicant to pay only its fair share of the street improvements. The impacts and mitigations for which the West Railroad Village subdivision must pay a fair share for the roadway improvements are:

**Impact 3.14-1: Implementation of the proposed BSMP would cause significant impacts at intersections in the City of Yuba City.**

The proposed BSMP would cause significant impacts at the following intersections in the City of Yuba City:

- South Walton Avenue/Bogue Road (LOS B to E during the PM peak hour)
- Railroad Avenue/Lincoln Road (LOS C to E during the PM peak hour)
- Phillips Road/Bogue Road (LOS B to F during the AM and PM peak hours)
- Railroad Avenue/Bogue Road (LOS C to F during the AM and PM peak hours)
- Gilsizer Ranch Way/Bogue Road (LOS E or F during the AM and PM peak hours)

Each of these intersections would consist of stop control under existing plus BSMP conditions. In addition to operating at an unacceptable LOS E or F, each intersection would satisfy the peak hour warrant for consideration of a traffic signal. Therefore, this impact is considered significant.

**Mitigation Measure 3.14-1(a): Yuba City Intersections:** The Project applicant(s) shall construct the following improvements. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.

i. Install a traffic signal and widen the eastbound and southbound approaches to provide dedicated left-turn pockets at the Bogue Road/South Walton Avenue intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).

ii. Install a traffic signal at the Railroad Avenue/Lincoln Road intersection (in conjunction with existing lane configurations).

iii. Install a traffic signal at the Bogue Road/Phillips Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).

iv. Install a traffic signal at the Bogue Road/Railroad Avenue intersection and widen/restripe the northbound and southbound approaches to provide dedicated left-turn pockets (in conjunction with lane configurations planned under existing plus BSMP conditions).

v. Install a traffic signal at the Gilsizer Ranch Way/Bogue Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).

Significance After Mitigation: According to the BSMP EIR Mitigation Measure 3.14-1(a) would restore operations at each intersection to an acceptable LOS D or better. The Bogue Road/Phillips Road intersection is recommended to operate with split-phasing on the northbound and southbound approaches and protected left-turn phasing on the eastbound and westbound approaches. The Bogue Road/South Walton Avenue and Bogue Road/Railroad Avenue intersections are recommended to operate with protected left-turn phasing on all approaches. With the implementation of Mitigation Measure 3.14-1(a) listed above, this impact would be reduced to a less-than-significant level for the BSMP.

**Impact 3.14-3: Implementation of the proposed BSMP would cause significant LOS-related impacts at intersections maintained by Caltrans:**

The BSMP would cause significant impacts at the following intersections maintained by Caltrans:

- SR 99/Bogue Road (LOS C to E during the PM peak hour)
- SR 99/Stewart Road (LOS F during the AM and PM peak hours and peak hour signal warrant met)

Development within the BSMP would worsen delays at other intersections (besides the two listed above) along SR 99. However, impacts would be less than significant at those locations because either the resulting LOS remain acceptable, operations would be unacceptable, but the peak hour signal warrant would not be met, or the increase the delay would be less than five seconds (for already unacceptable operations). Impacts of the proposed BSMP at these two intersections is considered significant.

**Mitigation Measure 3.14-3: Caltrans Intersections LOS:** The Project applicant(s) shall construct the improvements described below. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff and Caltrans regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.

i. Widen the SR 99/Bogue Road intersection to provide a second southbound left-turn lane that provides 500 feet of storage in each lane. Widen Bogue Road to construct a second eastbound and westbound left-turn lane. Restripe westbound Bogue Road approaching SR 99 to consist of two left-turn lanes, one through lane, and one right-turn lane (with the right-turn consisting of an overlap arrow); and

ii. Install a traffic signal at the SR 99/Stewart Road intersection.

Significance After Mitigation: Operations would be restored to LOS D at the SR 99/Bogue Road intersection, and LOS C at the SR 99/Stewart Road intersection during each peak hour. Since the BSMP applicant controls properties on both sides of SR 99 south of Bogue Road, widening of Bogue Road to accommodate the additional lanes is considered feasible. Additionally, the State Route 99 Transportation Corridor Concept Report (Caltrans, 2010) indicates that this segment of SR 99 is planned to ultimately be a six-lane expressway, which implies (and also based on review of aerial imagery) that right-of-way is available to widen SR 99 to accommodate a second southbound left-turn lane. With the implementation of Mitigation Measure 3.14-3i and ii listed above, this impact would be reduced to a less-than-significant level for the proposed BSMP.

**Impact 3.14-4: Implementation of the proposed BSMP would cause significant queuing-related impacts at intersections maintained by Caltrans.**

The proposed BSMP would cause significant queuing-related impacts at the SR 99/Bogue Road intersection maintained by Caltrans. The southbound left-turn lane would have a maximum vehicle queue of 1,250 feet during the PM peak hour, which would exceed the 450 feet of available storage. This would cause traffic to queue into the adjacent through lane. The impact of the proposed BSMP at this intersection is considered significant.

**Mitigation Measure 3.14-4(a):** Caltrans Intersections Queuing: Implement Mitigation Measure 3.14-3(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane. To address queuing impacts in the southbound left-turn lane prior to the overall intersection LOS reaching an unacceptable level, the second left-turn lane is necessary. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff and Caltrans regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.

Significance After Mitigation: Per the BSMP EIR the maximum queue in the southbound left-turn lane would be 300 feet, which is less than the 500 feet per lane that would be provided with this mitigation. The vehicular queuing at the SR 99/Stewart Road intersection would also be acceptable with installation of a traffic signal (i.e., implementation of Mitigation Measure 3.14-3(ii)). With the implementation of Mitigation Measure 3.14-3(i), this impact would be reduced to a less-than-significant level.

**Impact 3.14-7: Implementation of the proposed BSMP, in combination with other cumulative development, would cause cumulatively considerable significant impacts at intersections in the City of Yuba City.**

The proposed BSMP would contribute to cumulatively considerable significant impacts at the following intersections in the City of Yuba City:

- South Walton Avenue/Bogue Road (LOS F operations exacerbated during the AM and PM peak hours);
- Phillips Road/Bogue Road (LOS C to F during the AM peak hour and LOS B to F during the PM peak hour);
- Railroad Avenue/Bogue Road (LOS E to F during the AM peak hour and LOS D to F during the PM peak hour);
- Garden Highway/Bogue Road (LOS C to E during the AM and PM peak hours); and
- Gilsizer Ranch Way/Bogue Road (LOS F during the AM and PM peak hours).

Four of the five intersections would consist of stop control under cumulative Plus BSMP conditions. In addition to operating at an unacceptable LOS F, each unsignalized intersection would satisfy the peak hour warrant for consideration of a traffic signal. Therefore, this impact is considered cumulatively significant.

**Mitigation Measure 3.14-7(a): Cumulative Yuba City Intersections:**

i. Implement Mitigation Measure 3.14-1(a)(i): Install traffic signal and add turn lanes at the Bogue Road/South Walton Avenue intersection.

ii. Implement Mitigation Measure 3.14-1(a)(iii): Install traffic signal at the Bogue Road/Phillips Road intersection.

iii. Implement Mitigation Measure 3.14-1(a)(iv): Install a traffic signal and add turn lanes at the Bogue Road/Railroad Avenue intersection.

iv. Implement Mitigation Measure 3.14-1(a)(v): Install traffic signal at the Gilsizer Ranch Way/Bogue Road intersection.

v. Contribute fair share cost for restriping the eastbound approach at the Garden Highway/Bogue Road intersection from a through lane to a shared through/right lane and modifying the signal phasing to east-west split-phase.

Significance After Mitigation: These mitigation measures would restore operations at each intersection to an acceptable LOS D or better. The Bogue Road/Phillips Road intersection is recommended to operate with split-phasing on the northbound and southbound approaches and protected left-turn phasing on the eastbound and westbound approaches. The Bogue Road/Railroad Avenue intersection is recommended to operate with protected left-turn phasing on all approaches. With the implementation of the above mitigation measures, this impact would be reduced to a less-than-significant level with the proposed BSMP.

**Impact 3.14-9: Implementation of the proposed BSMP, in combination with other cumulative development, would cause cumulatively significant LOS-related impacts at intersections maintained by Caltrans.**

The proposed BSMP would cause cumulatively significant impacts at the following intersections maintained by Caltrans:

- SR 99/Hunn Road (LOS F operations exacerbated during the AM peak hour and peak hour signal warrant met);
- SR 99/Smith Road (LOS F operations exacerbated during the AM peak hour and peak hour signal warrant met);
- SR 99/Bogue Road (LOS D to E during the AM peak hour and LOS D to F during the PM peak hour); and
- SR 99/Stewart Road (LOS F operations exacerbated during the AM and PM peak hours and peak hour signal warrant met).

The Project would worsen delays at other intersections (besides those listed above) along SR 99. However, impacts are less than significant at those locations because either the resulting LOS remained acceptable, operations were unacceptable, but the peak hour signal warrant was not met, or the increase in delay was less than five seconds (for already unacceptable operations). The impacts of the proposed BSMP at these intersections are considered cumulatively significant.

**Mitigation Measure 3.14-9(a): Cumulative Caltrans Intersections LOS**

i. Implement Mitigation Measure 3.14-3(a)(i): Add turn lanes at the SR 99/Bogue Road intersection.

ii. Implement Mitigation Measure 3.14-3(a)(ii): Install traffic signal at the SR 99/Stewart Road intersection.

iii. Contribute fair share cost for adding a second northbound left-turn lane and adding dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection.

iv. Contribute fair share cost for installing a traffic signal at the SR 99/Hunn Road intersection.

v. Contribute fair share cost for installing a traffic signal at the SR 99/Smith Road intersection.

Significance After Mitigation: with this mitigation measure each intersection would operate at LOS D or better with recommended mitigation measures in place (and assuming the remaining fair share funding is identified). Since the Newkom Ranch and Kells East Ranch applicants control properties on both sides of SR 99 south of Bogue Road, widening of Bogue Road to accommodate the additional lanes is considered feasible.

**Impact 3.14-10: Implementation of the proposed BSMP, in combination with other cumulative development, would cause significant queuing-related impacts at intersections maintained by Caltrans.**

The proposed BSMP would cause significant queuing-related impacts at the following intersection maintained by Caltrans:

- SR 99/Bogue Road – The northbound and southbound left and right-turn movements would each have maximum vehicle queues that exceed the available storage during the AM or PM peak hours.

The impact of the proposed BSMP at this intersection is considered significant.

**Mitigation Measure 3.14-10(a): Cumulative Caltrans Intersections Queuing**

i. Implement Mitigation Measure 3.14-3(a)(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane.

ii. Implement Mitigation Measure 3.14-9(a)(iii), which consists of paying fair share cost of adding a second northbound left-turn lane and dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection.

Significance After Mitigation: The northbound left-turn lane at the SR 99/Bogue Road intersection would have a maximum queue of 475 feet. However, this value does not represent a line of vehicles that spills out of the turn pocket, but rather the result of northbound through traffic queuing that causes left-turning traffic to not be able to access the turn pocket. A similar situation occurs in the northbound right-turn lane. The queuing in the southbound left- and right-turn lanes represent vehicular queues that would spill out of the turn pocket and into adjacent through lanes. The mitigation measures would result in reductions in vehicular queues in the southbound left- and right-turn lanes that no longer exceed their available vehicular storage. Northbound left- and right-turn movements would continue to occasionally be blocked by through traffic.

Since the identified mitigation measures for queuing impacts to SR 99 intersections require fair share funding, those impacts are considered cumulatively significant and unavoidable because there are no known fee programs in place to collect the remaining funds to ensure the identified improvement is made. Caltrans does have processes in place whereby they may accept direct payments from applicants as fair share mitigation for impacts to the state highway system. However, negotiations between the applicant, City, and Caltrans regarding such a payment have not been initiated at this time. Therefore, cumulative impacts related to queuing at the SR 99/Bogue Road intersection are considered significant and unavoidable.

This Project is consistent with the land use pattern policies, and design called for in the BSMP, this subdivision will not add to those impacts identified in the EIR. This subdivision will not create any additional significant impacts on transportation and traffic over what has already been identified in the

BSMP EIR. Therefore, with the implementation of the mitigation measures that are carried forward from the EIR to this document the impacts on transportation and traffic above what was anticipated in the BSMP EIR will be less than significant.

*b) Conflict or be inconsistent with CEQA Guidelines section 15064.3 subdivision (b)?*

This CEQA section describes specific considerations for evaluating a project's transportation impacts in terms of Vehicle Miles Traveled (VMT). SACOG, in "Technical Advisory: On Evaluating Transportation Impacts in CEQA" provides two criteria for which if the project meets either of them, the traffic impacts are considered less than significant. One criterion is that the project generates less than 110 vehicle trips per day is considered to be less than a significant impact. The Project will exceed this criterion, so it is not considered any further in this review. The second criterion is that if a project, on a per capita or per employee basis, the VMT will be at least 15 percent below that of existing development is a reasonable threshold for determining significance. SACOG also has released a draft document (SB 743 regional screening maps) that provides mapping data indicating the average miles traveled for different areas within and around Yuba City. The range of the categories are:

Less than 50% of regional average.
50-85% of regional average.
85-100% of the regional average.
115-150% of the regional average.
More than 150% of the regional average.

Per the SACOG maps for the Project area, the estimated average vehicle distance traveled per residence is in the 50-85% range of the norm. In other words, per the SACOG regional screening maps this subdivision is located in an area that meets the 15 percent vehicle trip reduction criteria. Thus, the transportation impacts from this subdivision are consistent with CEQA Guidelines Section 15063.4(b) and it follows that the traffic impacts generated by this Project regarding vehicle miles traveled are considered to be less than significant.

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Beyond the issues raised in the BSMP EIR, and review by the Public Works Department of the Project, there was no evidence to indicate that there are any street design issues on nearby streets. Therefore, any increase in street hazards generated by this Project is less than significant.

d) Result in inadequate emergency access?

The Fire and Police Departments have reviewed the Project plans and did not express concerns about emergency access to the property. Therefore, the impacts on emergency services will be less than significant.

## 3.18 Tribal Cultural Resources

| Table 3-18: Tribal Cultural Resources | | | | |
|---|---|---|---|---|
| | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| Would the project cause of substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: | | | | |
| a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or | | | X | |
| b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. | | X | | |

### *3.18.1 Environmental Setting/Affected Environment*

This section describes the affected environment and regulatory setting for Tribal Cultural Resources (TCRs).

### *3.18.2 State Regulatory Setting*

Assembly Bill 52: Effective July 1, 2015, Assembly Bill 52 (AB 52) amended CEQA to require that: 1) a lead agency provide notice to any California Native American tribes that have requested notice of projects proposed by the lead agency; and 2) for any tribe that responded to the notice within 30 days of receipt with a request for consultation, the lead agency must consult with the tribe. Topics that may be addressed during consultation include TCRs, the potential significance of project impacts, type of environmental document that should be prepared, and possible mitigation measures and project alternatives.

Pursuant to AB 52, Section 21073 of the Public Resources Code defines California Native American tribes as "a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of the Statutes of 2004." This includes both federally and non-federally recognized tribes.

Section 21074(a) of the Public Resource Code defines TCRs for the purpose of CEQA as:

1) Sites, features, places, cultural landscapes (geographically defined in terms of the size and scope), sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

a. included or determined to be eligible for inclusion in the California Register of Historical Resources; and/or

b. included in a local register of historical resources as defined in subdivision (k) of Section 5020.1; and/or

c. a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

Because criteria a and b also meet the definition of a Historical Resource under CEQA, a TCR may also require additional consideration as a Historical Resource. TCRs may or may not exhibit archaeological, cultural, or physical indicators.

Recognizing that California tribes are experts in their TCRs and heritage, AB 52 requires that CEQA lead agencies initiate consultation with tribes at the commencement of the CEQA process to identify TCRs. Furthermore, because a significant effect on a TCR is considered a significant impact on the environment under CEQA, consultation is required to develop appropriate avoidance, impact minimization, and mitigation measures.

### *3.18.3 Cultural Setting*

The Nisenan (also referred to as Southern Maidu) inhabited the General Plan area prior to large-scale European and Euroamerican settlement of the surrounding area. Nisenan territory comprised the drainages of the Yuba, Bear, and American Rivers, and the lower drainages of the Feather River. The Nisenan, together with the Maidu and Konkow, their northern neighbors, form the Maiduan language family of the Penutian linguistic stock (Shipley 1978:89). Kroeber (1976:392) noted three dialects: Northern Hill Nisenan, Southern Hill Nisenan, and Valley Nisenan. Although cultural descriptions of this group in the English language are known from as early as 1849, most of our current cultural knowledge comes from various anthropologists in the early part of the 20th century (Levy 1978:413; Wilson and Towne 1978:397).

The basic subsistence strategy of the Nisenan was seasonally mobile hunting and gathering. Acorns, the primary staple of the Nisenan diet, were gathered in the valley along with seeds, buckeye, salmon, insects, and a wide variety of other plants and animals. During the warmer months, people moved to mountainous areas to hunt and collect food resources, such as pine nuts. Bedrock and portable mortars and pestles were used to process acorns. Nisenan settlement patterns were oriented to major river drainages and tributaries. In the foothills and lower Sierra Nevada, Nisenan located their villages in large flats or ridges near major streams. These villages tended to be smaller than the villages in the valley (Wilson and Towne 1978:389–390).

Trade provided other valuable resources that were not normally available in the Nisenan environment. The Valley Nisenan received black acorns, pine nuts, manzanita berries, skins, bows, and bow wood from the Hill Nisenan to their east, in exchange for fish, roots, grasses, shells, beads, salt, and feathers (Wilson and Towne 1978). To obtain, process, and utilize these material resources, the Nisenan had an array of tools to assist them. Wooden digging sticks, poles for shaking acorns loose, and baskets of primarily willow and redbud were used to gather vegetal resources. Stone mortars and pestles were used to process many of the vegetal foods; baskets, heated stones, and wooden stirring sticks were used for cooking. Basalt and obsidian were primary stone materials used for making knives, arrow and spear points, clubs, arrow straighteners, and scrapers. (Wilson and Towne 1978.)

Nisenan settlement locations depended primarily on elevation, exposure, and proximity to water and other resources. Permanent villages were usually located on low rises along major watercourses. Village size ranged from three houses to 40 or 50 houses. Larger villages often had semi-subterranean dance houses that were covered in earth and tule or brush and had a central smoke hole at the top and an entrance that faced east (Wilson and Towne 1978:388). Early Nisenan contact with Europeans appears to have been limited to the southern reaches of their territory. Spanish expeditions intruded into Nisenan territory in the early 1800s. In the two or three years following the gold discovery, Nisenan territory was overrun by immigrants from all over the world. Gold seekers and the settlements that sprang up to support them were nearly fatal to the native inhabitants. Survivors worked as wage laborers and domestic help and lived on the edges of foothill towns. Despite severe depredations, descendants of the Nisenan still live in their original land area and maintain and pass on their cultural identity.

### *3.18.4 Summary of Native American Consultation*

AB 52 now requires lead agencies to analyze project impacts on "tribal cultural resources" separately from archaeological resources (PRC § 21074; 21083.09). AB 52 also requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (PRC § 21080.3.1, 21080.3.2, 21082.3). In response to AB 52, the City supplied the following Native American tribes with a Project description and map of the proposed Project area and a request for comments:

- United Auburn Indian Community of the Auburn Rancheria
- Yocha Dehe Wintun Nation
- Estom Yomeka Maidu Tribe of the Enterprise Rancheria
- Mechoopda Indian Tribe
- Pakan'yani Maidu of Strawberry Valley
- Mooretown Rancheria of Maidu Indians
- Ione Band of Miwok Indians

### *3.18.6 Thresholds of Significance*

AB 52 established that a substantial adverse change to a TCR has a significant effect on the environment. The thresholds of significance for impacts to TCRs are as follows:

Would the Project cause a substantial adverse change to a TCR, defined in Section 21074 as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a Native American tribe that are:

- Included or determined to be eligible for inclusion in the California Register of Historical Resources;
- Included in a local register of historical resources as defined in subdivision k of Section 5010.1; and/or
- Determined by the City to be significant, as supported by substantial evidence, including:
  - A cultural landscape with a geographically defined boundary;
  - A historical resource as described in Section 21084.1 (either eligible for or listed on the California Register of Historical Resources or listed on a local registry);
  - A unique archaeological resource as defined in Section 21083.2; and/or

- A non-unique archaeological resource as defined in Section 21083.2.

In assessing substantial adverse change, the City must determine whether or not the Project will adversely affect the qualities of the resource that convey its significance. The qualities are expressed through integrity. Integrity of a resource is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association [CCR Title 14, Section 4852(c)]. Impacts are significant if the resource is demolished or destroyed or if the characteristics that made the resource eligible are materially impaired [CCR Title 14, Section 15064.5(a)]. Accordingly, impacts to a TCR would likely be significant if the Project negatively affects the qualities of integrity that made it significant in the first place. In making this determination, the City need only address the aspects of integrity that are important to the TCR's significance.

### *3.18.7 Impact Assessment/Environmental Consequences:*

*a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).*

There are no structures on the property, as it is solely used as an orchard. Further, the site has been tilled for many years due to its agricultural use. Even though the presence of any historical resources is unlikely, to assure that no historical resources are present Mitigation Measure 3.5-2(b), required in Section b) below, shall be applied as it requires a site survey for archaeological resources anyway.

*b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

As provided in the BSMP EIR, because the BSMP area has been used primarily for agriculture and low-density residential occupation, the potential for buried historic archaeological deposits in the BSMP project site is relatively low, due to associated ground disturbance.

As part of the BSMP EIR process a cultural resource investigation was conducted for the proposed BSMP area, which included background research and a records search of the NEIC, both of which address the entire BSMP area and Native American consultation. The investigation also included a site-specific built-environment resource survey of the nearby Newkom Ranch and Kells East Ranch properties, but not the West Railroad Village site or other properties within the BSMP area. That records search identified two previously recorded cultural resources within a 0.25-mile search area: a prehistoric site and the Feather River levee. Neither resource is located within the BSMP area

As stated in the BSMP EIR, given the Late Holocene age of the BSMP area underlying geologic formation, ESA archaeologists (preparers of the BSMP EIR) determined that the BSMP area has a high sensitivity for buried prehistoric archaeological deposits. During the prehistoric period, the BSMP area would have been an amenable setting for procurement of the abundant flora and fauna found in the area's marshes, river channels, and adjacent forests and grasslands. The BSMP area may also have been an ideal setting for prehistoric habitation, probably temporary or seasonal due to flood risks from the adjacent Feather River and Gilsizer Slough. This is corroborated by the dense number of ethnographic village sites on the west side of the Feather River at the confluence of the Yuba River.

Historic-period agricultural activities have disturbed virtually the entire BSMP area. Historic development and associated use may have resulted in the creation of buried historic archaeological deposits associated with agricultural residences and use. Because the Project site has been used primarily for agriculture and low-density residential occupation, the potential for buried historic-period archaeological deposits is relatively low.

In the event that currently unknown unique significant archaeological resources of either the prehistoric or historic periods are disturbed by BSMP-related earth-moving activities, the disturbance of significant archaeological resources would be a potentially significant impact.

Also, as part of the BSMP review process, tribal consultation pursuant to PRC section 21080.3.1, was initiated by Yuba City staff in coordination with the NAHC and tribal contacts provided by the NAHC, identified no known traditional lands or cultural places within or near the BSMP area. No tribes that were notified requested formal consultation, but there was response via email to Yuba City staff that the tribe retains the right to be involved should any discoveries be made.

Based on the discussion above, implementation of Mitigation Measure 3.5-2(b) below would ensure that archaeological resources or human remains are appropriately evaluated and treated if discovered during construction of the proposed BSMP.

Significance After Mitigation: Mitigation Measure 3.5-2(b) would ensure that analysis and mitigation of impacts is conducted for future phases of development of the proposed BSMP. Implementation of Mitigation Measure 3.5-2(b) would ensure that impacts to prehistoric archaeological resources, tribal cultural resources, and human remains would be less than significant.

### *3.18.8 BSMP Mitigation Measures for Tribal Cultural Resources from the BSMP EIR*

**Mitigation Measure 3.5-2(b): Protection of Historic Archaeological Resources:**

When BSMP-level development plans outside the Newkom Ranch and Kells East Ranch properties are submitted to the City of Yuba City for approval, the project applicant shall be required to complete a cultural resources investigation for review and approval by the City that includes, at a minimum:

- An updated records search at the Northeast Information Center;
- Updated Native American consultation in coordination with the Native American Heritage Commission.
- An intensive archaeological survey of the development area;
- A geoarchaeological assessment for the potential for buried archaeological resources;
- A report that documents the results of the investigation; and
- Recommendations for mitigation to resolve adverse impacts to significant archaeological resources or human remains.

The survey shall be carried out by a qualified archaeologist meeting the Secretary of the Interior's Standards for Archaeology and can be documented in the same document as required in Mitigation Measure 3.5-1(a).

## 3.19 Utilities and Service Systems

| Table 3-19: Utilities and Service Systems | | | | |
|---|---|---|---|---|
| Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Require or result in the relocation or construction of new or expanded water or wastewater treatment or storm drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects? | | | X | |
| b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years? | | X | | |
| c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the projected demand in addition to the existing commitments? | | | X | |
| d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals? | | | X | |
| e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste? | | | X | |

### *3.19.1 Environmental Setting/Affected Environment*

Water:

The water supply source for the City is surface water from the Feather River with use of a backup groundwater well. The City of Yuba City is a public water agency with approximately 18,045 connections. City policy only allows areas within the City limits to be served by the surface water system.

Wastewater:

Yuba City owns, operates, and maintains the wastewater collection, treatment, and disposal system that provides sewer service to approximately 60,000 residents and numerous businesses. The remainder of the residents and businesses in the Yuba City Sphere of Influence (SOI) are currently serviced by private septic systems. In the early 1970s, the City's original sewage treatment plant was abandoned, and the current Wastewater Treatment Facility (WWTF) was constructed. Reuse and Recycling:

Solid waste generated in Yuba City is collected by Recology Yuba-Sutter. Recology offers residential, commercial, industrial, electronic, and hazardous waste collection, processing, recycling, and disposal, as well as construction and demolition waste processing, diversion, and transfer to a disposal facility. The City's municipal solid waste is delivered to the Ostrom Road Landfill; a State-permitted solid waste facility that provides a full range of transfer and diversion services. As of June 2021, the Recology Ostrom Road

Landfill Remaining Site Net Airspace is 33,764,000 cy; and has a remaining capacity of 21,297,000 tons; and remaining landfill service life is 53 years.

### *3.19.2 Federal Regulatory Setting*

National Pollutant Discharge Elimination System: Discharge of treated wastewater to surface water(s) of the U.S., including wetlands, requires an NPDES permit. In California, the RWQCB administers the issuance of these federal permits. Obtaining a NPDES permit requires preparation of detailed information, including characterization of wastewater sources, treatment processes, and effluent quality. Any future development that exceeds one acre in size would be required to comply with NPDES criteria, including preparation of a Stormwater Pollution Prevention Plan (SWPPP) and the inclusion of BMPs to control erosion and offsite transport of soils.

### *3.19.3 State Regulatory Setting*

State Water Resources Control Board (SWRCB): Waste Discharge Requirements Program. State regulations pertaining to the treatment, storage, processing, or disposal of solid waste are found in Title 27, CCR, Section 20005 et seq. (hereafter Title 27). In general, the Waste Discharge Requirements (WDRs) Program (sometimes also referred to as the "Non-Chapter 15 (Non 15) Program") regulates point discharges that are exempt pursuant to Subsection 20090 of Title 27 and not subject to the Federal Water Pollution Control Act. Exemptions from Title 27 may be granted for nine categories of discharges (e.g., sewage, wastewater, etc.) that meet, and continue to meet, the preconditions listed for each specific exemption. The scope of the WDRs Program also includes the discharge of wastes classified as inert, pursuant to Section 20230 of Title 27. Several programs are administered under the WDR Program, including the Sanitary Sewer Order and recycled water programs.

Department of Resources Recycling and Recovery (CalRecycle): The Department of Resources Recycling and Recovery (CalRecycle) is the State agency designated to oversee, manage, and track the 76 million tons of waste generated each year in California. CalRecycle develops laws and regulations to control and manage waste, for which enforcement authority is typically delegated to the local government. The board works jointly with local government to implement regulations and fund programs.

The Integrated Waste Management Act of 1989 (PRC 40050 et seq. or Assembly Bill (AB) 939, codified in PRC 40000), administered by CalRecycle, requires all local and county governments to adopt a Source Reduction and Recycling Element to identify means of reducing the amount of solid waste sent to landfills. This law set reduction targets at 25 percent by the year 1995 and 50 percent by the year 2000. To assist local jurisdictions in achieving these targets, the California Solid Waste Reuse and Recycling Access Act of 1991 requires all new developments to include adequate, accessible, and convenient areas for collecting and loading recyclable and green waste materials.

Regional Water Quality Control Boards: The primary responsibility for the protection of water quality in California rests with the State Water Resources Control Board (State Board) and nine Regional Water Quality Control Boards. The State Board sets statewide policy for the implementation of state and federal laws and regulations. The Regional Boards adopt and implement Water Quality Control Plans (Basin Plans), which recognize regional differences in natural water quality, actual and potential beneficial uses, and water quality problems associated with human activities.

National Pollutant Discharge Elimination System (NPDES) Permit: As authorized by the Clean Water Act (CWA), the National Pollutant Discharge Elimination System (NPDES) Permit Program controls water pollution by regulating point sources that discharge pollutants into water of the United States. In

California, it is the responsibility of Regional Water Quality Control Boards (RWQCB) to preserve and enhance the quality of the state's waters through the development of water quality control plans and the issuance of waste discharge requirements (WDRs). WDRs for discharges to surface waters also serve as NPDES permits.

California Department of Water Resources: The California Department of Water Resources (DWR) is a department within the California Resources Agency. The DWR is responsible for the State of California's management and regulation of water usage.

### *3.19.4 Impact Assessment/Environmental Consequences:*

*a) Require or result in the relocation or construction of new or expanded water or wastewater treatment or storm drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?*

The Project will connect to both the City's water and wastewater treatment systems. For both facilities there are City adopted master plans to expand those plants to the extent that they will accommodate the overall growth of the City. A summary of the BSMP EIR on the City's water and wastewater systems is as follows:

> Potential on-site and off-site environmental impacts that could result from construction of the proposed wastewater conveyance system, including impacts related to ground-disturbing construction activities, are addressed in the applicable technical sections of the BSMP EIR. The analysis provided in the EIR is that sufficient available treatment capacity at the City's existing WWTF to accommodate the full development of the BSMP, including Newkom Ranch and Kells East Ranch. Therefore, the proposed BSMP would not result the construction of new wastewater treatment facilities or the expansion of existing facilities. Therefore, this impact would be less than significant.
>
> Implementation of the proposed BSMP, in combination with buildout of the Yuba City General Plan, would increase the demand for water treatment at the City's WTP that would exceed the current capacity of the WTP. The proposed BSMP would result in a total maximum daily demand increase for treated water of 3 mgd or one-third of the remaining capacity at the WTP. However, the *Yuba City Update to Water Demand and Infrastructure System Evaluation* provides a plan for phased expansion of the water WTP to meet the future demands of buildout within the City's SOI. Financing for the expansion of the WTP and all other water conveyance facilities would be through development fees and local taxes or bond funding. Therefore, the impacts are considered less than significant.

*b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?*

The BSMP EIR concludes that Implementation of the proposed BSMP along with buildout of the Yuba City General Plan would result in a shortfall of water during a single-dry year and the first year of a multi-dry year starting in 2030 and increasing out to 2040. This is considered a significant cumulative impact. The proposed BSMP would have a considerable contribution to this significant cumulative impact because it would result in an increase in demand on the limited water supply sources of the City of up to 1,574 acre-feet/year.

Significance after mitigation: Mitigation Measure 3.15-1 would reduce water supply impacts of the proposed BSMP to less than considerable levels resulting in a less-than-significant impact.

The extension of electric power facilities, natural gas facilities and telecommunication facilities are provided by private companies, none of which have voiced concerns over the extensions of their services to this Project site. With these considerations the impact on these facilities are expected to be less than significant.

*c) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the projected demand in addition to the existing commitments?*

As summarized in the BSMP EIR the proposed BSMP would result in the discharge of approximately 2.3 mgd peak wet weather flow (PWWF). The WWTF has maximum capacity peak-hour flow of 19 mgd, with an excess capacity to serve the BSMP PWWF of approximately 10 mgd. Therefore, there would be adequate capacity to serve plan's wastewater demands in addition to existing flow to the WWTF. Therefore, the capacity of the WWTF would be sufficient to serve the wastewater flows from the proposed BSMP. This impact would be less than significant.

*d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.*

As summarized in the BSMP EIR, solid waste generated from developed uses under the proposed BSMP would be removed from the site by the City and/or private haulers, and either recycled in accordance with City programs and requirements or landfilled at the Ostrom Road Landfill. These facilities together currently have approximately 39 million cubic yards of available capacity. Solid waste from the proposed BSMP would represent approximately 0.03 percent of total annual solid waste served at the Ostrom Road Landfill. Sufficient landfill capacity would be available to serve the proposed BSMP and would not require new or expanded solid waste management or disposal facilities. Additionally, implementation of typical recycling rates and City recycling requirements would result a portion of the total waste stream being diverted to recycling. Therefore, the impact on solid waste facilities would be less than significant.

*e) Comply with federal, state, and local statutes and regulations related to solid waste?*

Recology Yuba-Sutter is authorized by both Sutter County and Yuba County to provide solid waste disposal for the area as well as for all of Sutter and Yuba Counties. As discussed above, there is adequate collection and landfill capacity to accommodate the proposed development.

### *3.19.5 Utility and Service Systems Mitigation Measure from the BSMP EIR*

**Mitigation Measure 3.15-1: Water Supply Capacity**

a) Individual project applicants shall pay the fair share of costs for each development's proportion of the water supply deficits estimated through 2040. The payments shall be directed to a City fund for the construction and operation of new groundwater well(s) as determined by the City. The City shall reflect the requirement for the fair share payment for each development in any future development agreement in the BSMP site, and payment shall be made to the City prior to final tentative map approval and building permit.

b) The City shall construct new groundwater well(s) to be operable and sufficient to serve the water supply demands of each development approved prior to year 2030. The groundwater well(s) shall be constructed to produce sufficient water to make up the shortfalls in any given single-dry year or the first year of a multi-dry year scenario as determined by the City.

c) The City shall not approve a final tentative map or building permit for any development pursuant to the proposed BSMP or City beyond the supplies available from 2030 through 2040 without a reliable source of water supply to meet the shortfalls in the single-dry year or the first year of a multi-dry year scenario, as detailed above.

Significance after Mitigation: Implementation of Mitigation Measures 3.15-1 would reduce impacts related to shortfalls of water supply to less-than-significant levels through the construction of groundwater well(s). Impacts of constructing groundwater well(s) would be limited to light construction work for drilling and installing the well(s), well pad(s), and pumping equipment. Operation of the well(s) and pump(s) would be limited to times when shortfalls are expected, and, therefore, are not expected to impact the underlying aquifers. The City would be required to prepare the appropriate CEQA documentation prior to approval of constructing groundwater well(s).

## 3.20 Wildfire

| Table 3-20: Wildfire | | | | |
|---|---|---|---|---|
| If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| a) Substantially impair an adopted emergency response plan or emergency evacuation plan? | | | X | |
| b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire? | | | X | |
| c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment? | | | X | |
| d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes? | | | X | |

### *3.20.1 Environmental Setting/Affected Environment*

Wildland fires are an annual hazard in Sutter County, particularly in the vicinity of the Sutter Buttes, and, to a lesser degree due to urbanized development, Yuba City. Wildland fires burn natural vegetation on undeveloped lands and include rangeland, brush, and grass fires. Long, hot, and dry summers with temperatures often exceeding 100°F add to the County's fire hazard. Human activities are the major causes of wildland fires, while lightning causes the remaining wildland fires. Irrigated agricultural areas, which tend to surround Yuba City, are considered a low hazard for wildland fires.

The California Department of Forestry and Fire Protection's Fire and Resource Assessment Program identifies fire threat based on a combination of two factors: 1) fire frequency, or the likelihood of a given area burning, and 2) potential fire behavior (hazard). These two factors are combined in determining the following Fire Hazard Severity Zones: Moderate, High, Very High, Extreme. These zones apply to areas designated as State Responsibility Areas – areas in which the State has primary firefighting responsibility. The project site is not within a State Responsibility Area and therefore has not been placed in a Fire Hazard Severity Zone.

### *3.20.2 Impact Assessment/ Environmental Consequences*

*a) Substantially impair an adopted emergency response plan or emergency evacuation plan?*

As discussed in Section 3.17 of this Initial Study, this Project is not expected to substantially obstruct emergency vehicles or any evacuations that may occur in the area. Therefore, the impacts of the Project related to emergency response or evacuations would be less than significant.

*b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?*

The Project site is in a level irrigated agricultural area that is transitioning to urban use. There is little, if any, native vegetation remaining. This type of environment is generally not subject to wildfires near the urban area. In light of this, the exposure of new residents to wildfire is less than significant.

*c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

As discussed above, the Project site is not near any wildland areas and the Project itself will not create any improvements that potentially could generate wildfire conditions. As such the Project will not be constructing or maintaining wildfire related infrastructure such as fire breaks, emergency water sources, etc. Thus, the Project will not create any potential significant impacts that could result from these types of improvements.

*d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?*

***The Project site is in a topographically flat area***. There are no streams or other channels that cross the site. As such, it is not expected that people or structures would be exposed to significant risks from changes resulting from fires in steeper areas, including downslope or downstream ***flooding or landslides. Impacts*** of the project related to these issues would be less than significant.

## 3.21 Mandatory Findings of Significance

| Table 3.21: Mandatory Findings of Significance | | | | |
|---|---|---|---|---|
| Would the Project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less Than Significant Impact | No Impact |
| 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, substantially reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important example of the major periods of California history or prehistory? | | | X | |
| 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) | | | X | |
| c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly? | | | X | |

### *3.21.1 Impact Assessment/Environmental Consequences:*

*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, substantially reduce the number, or restrict the range of a rare or endangered plant or animal or eliminate important example of the major periods of California history or prehistory?*

The land was stripped many years ago of native vegetation for agricultural purposes. The property is currently vacant of buildings and there are no waterways or nearby riparian areas. Mitigation measures that are included will reduce the impact on other identified species to a less than significant level. Therefore, this Project, subject to its conditions and mitigation measures, will not significantly degrade the quality of the natural 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. But there will be an unmitigable cumulative impact on overall natural habitat loss for which overriding considerations were made with the adoption of the BSMP.

Due to the proposed mitigation measures the Project will not eliminate an important example of the major periods of California history or prehistory beyond what was anticipated in the BSMP EIR.

The analysis conducted in this Initial Study/Mitigated Negative Declaration results in a determination that the proposed Project, with its mitigation measures, will not create any significant impacts on any of the identified species that was not considered in the BSMP, nor will there be any additional cumulative impacts not previously considered.

*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)*

CEQA Guidelines Section 15064(i) states that a Lead Agency shall consider whether the cumulative impact of a project is significant and whether the effects of the project are cumulatively considerable. The assessment of the significance of the cumulative effects of a project must, therefore, be conducted in connection with the effects of past projects, other current projects, and probable future projects.

As this property is located within a specific plan area, cumulative conditions were considered in the BSMP EIR. The traffic generated by the development is within what was anticipated in the Bogue-Stewart Master Plan, which considered future growth of the area and for which mitigation measures are provided that reduce the traffic impacts to a less than significant level on a project level and on a cumulative basis. With the application of the recommended conditions of approval and mitigation measures, the City will have adequate water and wastewater capacity, as the development fees that are generated will provide for ongoing plant expansions. Stormwater drainage will also meet all City standards. The BSMP provides for a new school site and a fee system to pay the fair-share of costs towards a new school to accommodate the new students generated by development of the BSMP area. With the implementation of the recommended mitigation measures for the Project as well as their continued implementation for future BSMP projects, the development of the BSMP area will still generate several significant impacts that cannot be mitigated below a level of significance. This includes the loss of agricultural land, air quality impacts, and loss of wildlife habitat that will generate cumulative significant impacts, but overriding considerations on these matters were made by the City Council. There would not be any significant cumulative impacts beyond what was considered by the BSMP EIR.

*c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?*

The proposed Project in and of itself will not create a significant hazard to the public or the environment. Construction-related air quality, noise, and hazardous materials exposure impacts would occur for a very short period but with implementation of the recommended mitigation measures will be less than significant impacts during that time period. Therefore, the proposed Project with its mitigation measures will not have any direct or indirect significant adverse impacts on humans beyond what was anticipated in the BSMP EIR.

# 4 Section References and/or Incorporated by Reference

According to Section 15150 of the CEQA Guidelines, an ND may incorporate by reference all or portions of another document that is a matter of public record. The incorporated language will be considered to be set forth in full as part of the text of the ND. All documents incorporated by reference are available for review at, or can be obtained through, the City of Yuba City Development Services Department located at the address provided above. The following documents are incorporated by reference:


ESA. Bogue-Stewart Master Plan Environmental Impact Report, November 2018.

Fehr & Peers, Inc. September 2020. SB 743 Implementation Guidelines for City of Yuba City.

Governor's Office of Planning and Research, November 2017. Technical Advisory on Evaluating Transportation Impacts in CEQA.

Sacramento Area Council of Governments. Hex Maps. Work VMT-2020 MTP/SCS (Adopted).

California Department of Conservation, Division of Land Resource Protection (CDC DLRP). 2014. Farmland Mapping and Monitoring Program – Sutter County Important Farmland 2012. August 2014.

California Department of Conservation, Division of Land Resource Protection (CDC DLRP). 2013. Sutter County Williamson Act FY 2013/2014.

Carollo. 2011. City of Yuba City 2010 Urban Water Management Plan. June 2011.

Yuba City, City of. 2016. City of Yuba City Municipal Code.
https://www.municode.com/library/ca/yuba_city/codes/code_of_ordinances

Dyett & Bhatia. 2004. City of Yuba City General Plan. Adopted April 8, 2004.

Yuba City General Plan, 2004 Environmental Impact Report. (SCH #2001072105).

Fehr & Peers Associates, Inc. 1995. Yuba-Sutter Bikeway Master Plan. December 1995.

"Determination of 1-in-200 Year Floodplain for Yuba City Urban Level of Flood Protection Determination," prepared for Yuba City by MBK Engineers, November 2015.

Sutter County General Plan.

Feather River Air Quality Management District (FRAQMD) CEQA Significance Thresholds.

Yuba Sutter Transit Route Map.

California Department of Conservation, California Geological Survey. "Fault Zone Activity Map." Alquist-Priolo Earthquake Fault Zones.

California Department of Toxic Substances Control (DTSC). 2016. EnviroStor. Available at http://www.envirostor.dtsc.ca.gov/public/
California Department of Conservation, Division of Land Resource Protection Farmland Mapping and Monitoring Program – Sutter County Important Farmland Map.

Federal Emergency Management Agency (FEMA), Flood Insurance Rate Maps.

Carollo. 2011. City of Yuba City 2010 Urban Water Management Plan. June 2011.

City of Yuba City Wastewater Master Plan.

Sutter County Airport Comprehensive Land Use Plan, April 1994.

Yuba County Airport Land Use Compatibility Plan, Sept. 2010.

California Department of Transportation (Caltrans). 2011. California Scenic Highway Mapping System website. Updated September 7, 2011. Available at http://dot.ca.gov/hq/LandArch/16_livability/scenic_highways/index.htm

**City of Yuba City**

# MITIGATION MEASURE AND REPORTING PLAN

## For West Railroad Village Subdivision

**Initial Study and Mitigated Negative Declaration EA 23-07**
**For Tentative Subdivision Map 23-02**

**Note:** the majority of the mitigations that follow are those mitigations from the Bogue-Stewart Master Plan EIR that were determined to be relevant to this subdivision. For reference purposes their original numbering was carried forward to the Initial Study and this MMRP.

| Impact | Mitigation Measure | Responsible Party | Monitoring Party | Timing |
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| 3.3 Air Quality | **Mitigation Measure 3.3-1(a): Fugitive Dust Control Plan**<br><br>During the construction of the BSMP, individual project applicants shall submit to FRAQMD a Fugitive Dust Control Plan with the following mitigation measures to be implemented:<br><br>a) All grading operations on a project shall be suspended when sustained winds exceed 20 miles per hour (mph) or when winds carry dust beyond the property line despite implementation of all feasible dust control measures;<br><br>b) Construction sites shall be watered as directed by the FRAQMD and as necessary to prevent fugitive dust violations;<br><br>c) An operational water truck shall be on-site at all times. Water shall be applied to control dust as needed to prevent visible emissions violations and off-site dust impacts;<br><br>d) On-site dirt piles or other stockpiled particulate matter shall be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce wind-blow dust emissions. | Developer | FRAQMD | Prior to issuance of grading permit |

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| | The use of approved nontoxic soil stabilizers shall be incorporated according to manufacturers' specifications to all inactive construction areas;<br><br>e) All transfer processes involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions;<br><br>f) Approved chemical soil stabilizers shall be applied according to the manufacturers' specifications to all inactive construction areas (previously graded areas that remain inactive for 96 hours), including unpaved roads and employee/equipment parking areas;<br><br>g) To prevent track-out, wheel washers shall be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed before each trip. Alternatively, a gravel bed may be installed as appropriate at vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks and prevent/diminish track-out;<br><br>h) Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom permitted) if soil material has been carried onto adjacent paved, public thoroughfares from the project site;<br><br>i) Temporary traffic control shall be provided as needed during all phases of construction to improve traffic flow, as deemed appropriate | | | |

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| | by the appropriate department of public works and/or California Department of Transportation (Caltrans), and to reduce vehicle dust emissions. An effective measure is to enforce vehicle traffic speeds at or below 15 mph;<br><br>j) Traffic speeds on all unpaved surfaces shall be reduced to 15 mph or less, and unnecessary vehicle traffic shall be reduced by restricting access. Appropriate training to truck and equipment drivers, on-site enforcement, and signage shall be provided;<br><br>k) Ground cover shall be reestablished on the construction site as soon as possible and before final occupancy through seeding and watering; and<br><br>l) Open burning shall be prohibited at the project site. No open burning of vegetative waste (natural plant growth wastes) or other legal or illegal burn materials (e.g., trash, demolition debris) may be conducted at the project site. Vegetative wastes shall be chipped or delivered to waste-to-energy facilities (permitted biomass facilities), mulched, composted, or used for firewood. It is unlawful to haul waste materials off-site for disposal by open burning.<br><br>**Mitigation Measure 3.3-1(b): Control Exhaust Emissions**<br><br>Construction equipment exhaust emissions shall not exceed FRAQMD Regulation III, Rule 3.0, Visible Emissions Limitations (40 percent opacity or Ringelmann 2.0). Operators of vehicles and equipment found to exceed opacity limits shall take action to repair the equipment within 72 hours or remove | | | |

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| | the equipment from service. Failure to comply may result in a notice of violation from FRAQMD.<br><br>**Mitigation Measure 3.3-1(c): Limit Equipment Idling**<br><br>Construction contracts within the BSMP shall limit idling time to 5 minutes in accordance with ARB airborne air toxic control measure 13 (CCR Chapter 10 Section 2485) unless more time is required per engine manufacturers' specifications or for safety reason.<br><br>**Mitigation Measure 3.3-1(d): Equipment Registration**<br><br>Portable engines and portable engine-driven equipment units used by construction contractors within the BSMP site, with the exception of on-road and off-road motor vehicles, may require ARB Portable Equipment Registration with the state or a local district permit. The owner/operator of the equipment shall be responsible for arranging appropriate consultations with ARB or the FRAQMD to determine registration and permitting requirements before the equipment is operated at the site.<br><br>**Mitigation Measure 3.3-1(e): Equipment Emissions Plan**<br><br>During the construction of the BSMP, individual project applicants shall assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that will be used an aggregate of 40 or more hours for a construction project. Applicants shall provide a plan for approval by FRAQMD demonstrating that the heavy-duty (equal to or greater | | | |

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| | than 50 horsepower) off-road equipment to be used for construction, including owned, leased, and subcontractor vehicles, will achieve a project-wide fleet-average 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent ARB fleet average at the time of construction.<br><br>These equipment emission reductions can be demonstrated using the most recent version of the Construction Mitigation Calculator developed by the SMAQMD. Acceptable options for reducing emissions may include use of late-model engines, low emission diesel products, alternative fuels, engine retrofit technology (Carl Moyer Guidelines), after-treatment products, voluntary off-site mitigation projects, the provision of funds for air district off-site mitigation projects, and/or other options as they become available. In addition, implementation of these measures would also result in a 5 percent reduction in ROG emissions from heavy-duty diesel equipment. FRAQMD shall be contacted to discuss alternative measures.<br><br>**Mitigation Measure 3.3-2: Implement Operational Mitigation Measures**<br><br>The project applicant(s) for tentative subdivision maps and development projects proposed under the BSMP shall implement the mitigation measures, as applicable to the proposed subdivision map or development project. At the time entitlements are sought, the City will evaluate measures below, determine which measures are applicable, and include those measures as conditions of approval or some other enforceable mechanism. All feasible measures listed below shall be | | | |

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| | incorporated into subdivision maps and development projects within the BSMP.<br><br>a) Subdivision maps and development projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park shall be developed in coordination with local transit providers to ensure proper placement and design of transit stops and accommodate public transit for both employees and patrons.<br><br>b) Subdivision maps and improvement plans shall be designed to provide convenient and safe bicycle, pedestrian, and transit access between neighborhoods and areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park, as well as parks, trails, and other destinations.<br><br>c) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall distribute proposed parking and not concentrate parking exclusively between the front building façade and the primary abutting street where feasible.<br><br>d) Cul-de-sacs are allowed only where they would not create a barrier for pedestrian and bicycle access or circulation between homes and destinations.<br><br>e) Employment generating projects that anticipate more than 50 full-time equivalent employees shall participate in the Yuba-Sutter | | | |

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| | Transportation Management Association.<br><br>f) Subdivision maps and improvement plans shall be designed to accommodate safe and frequent pedestrian crosswalks, with more frequent crossings in areas expected to have higher pedestrian traffic, such as schools, parks, trail connections, higher-density residential areas, and areas with retail, services, office uses, and other non-residential uses.<br><br>g) Subdivision maps and improvement plans shall be designed to discourage concentration of traffic at a few intersections. Multiple points of access shall be provided whenever feasible. Roads shall be arranged in an interconnected block pattern. The maximum average block length in subdivisions is 600 feet unless unusual existing physical conditions warrant an exception to this standard, but shorter block lengths should be used around areas designated Community Commercial and Neighborhood Commercial.<br><br>h) Subdivision maps and improvement plans shall be designed to connect with adjacent roadways and stubbed roads and shall provide frequent stubbed roadways in coordination with future planned development areas.<br><br>i) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to minimize the amount of on-site land required to meet parking, | | | |

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| | internal circulation, and delivery/loading needs.<br><br>j) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to break up any proposed surface parking with landscaping and provide pedestrian routes from parking areas to building entrances.<br><br>k) The City will reduce the amount of off-street parking required or eliminate off-street parking requirements for projects that propose housing units restricted to lower-, very low-, or extremely low-income households.<br><br>l) Residential subdivision maps shall orient the majority of buildings so that the longer axis of the building, also known as the ridge line, is oriented east-to-west, in order to maximize the potential for passive solar heating in the winter and to minimize heat gain from the afternoon summer sun.<br><br>m) Subdivision maps and development projects proposing off-street surface parking lots shall incorporate shade trees or shade structures to provide a minimum of 50 percent shading (at maturity, where trees are used).<br><br>n) Subdivision maps and development projects shall use climate-appropriate landscaping in parks and open space, landscaping within new rights of way, yards, and other appropriate spaces.<br><br>o) Provide secure, covered bicycle parking for employees of projects located in areas designated | | | |

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| | Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may consist of a separate secure, covered bicycle parking area at each employment location or larger shared bicycle parking area/s located and designed to serve multiple locations.<br><br>p) Shower and locker facilities shall be provided for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may be achieved by incorporating a shower and locker facility into the design of each proposed use, or facilities located and designed to serve multiple locations.<br><br>q) Residential development that proposes fireplaces shall use the lowest emitting commercially available fireplace.<br><br>r) Provide electric vehicle charging facilities and priority parking at non-residential uses for electric and carpool/vanpool vehicles. | | | |
| 3.4 Biological Resources | **Mitigation Measure 3.4-1: Protection of Jurisdictional Waters and Wetlands**<br><br>d) Prior to grading activities, the City shall require the project applicant [for an individual project pursuant to the BSMP] to prepare a formal aquatic resources delineation in accordance with the USACE Minimum Standards for Acceptance of Aquatic Resources Delineation Reports[4] for all areas of the individual development project site to determine if any wetlands or | Developer | Development Services Department | Prior to issuance of grading permit |

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| | other waters of the U.S. potentially subject to Sections 401 and 404 of the CWA exist on that site. If no potential wetlands or other waters of the U.S. are identified, a report shall be submitted to the City for its records and no additional measures are required. If the formal aquatic resources delineation identifies potentially jurisdictional features on an individual project site, then measure 3.4-1(b) shall be implemented (below). If potential canals, streams, or lakes are identified that may be impacted by project activities, mitigation 3.4-1(c) shall also be implemented.<br><br>e) If the formal aquatic resources delineation identifies potentially jurisdictional features on an individual development project site, then the report shall be submitted to the USACE for verification and issuance of a jurisdictional determination. If any wetlands or waters are determined to be under the jurisdiction of the USACE or the RWQCB and may be impacted by project development, then the individual project applicant shall obtain Section 404/401 permits based on the jurisdictional determination with the appropriate regulatory agency for the potentially impacted features. During the permitting process, mitigation measures shall be developed as necessary to reduce impacts on wetlands through avoidance, minimization and/or compensatory mitigation. Permanent losses to potentially jurisdictional wetlands and other waters of the U.S. shall be compensated at a minimum 1:1 ratio (or otherwise agreed upon | | | |

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| | ratio with the USACE and RWQCB) to achieve a no net loss of wetlands.<br>f) If the individual development project would result in impacts to the bed and banks of Gilsizer Slough, or other jurisdictional water courses with a defined bed and bank as identified in an aquatic resources delineation or jurisdictional determination, the City shall notify, or require the project applicant to notify, the CDFW. The CDFW will determine whether a Section 1600 Lake and Streambed Alteration Agreement (LSAA) is required. If required, the individual project applicant shall apply for and adhere to the conditions of the LSAA. This action shall be completed prior to issuance of a grading permit or initiation of other project activities that may impact the canal or other jurisdictional water courses.<br>**Mitigation Measure 3.4-2: Protection of Valley Elderberry Longhorn Beetle**<br>e) The individual project applicant shall engage a qualified biologist to conduct a survey of the construction footprint and 165-foot buffer around the proposed construction footprint to determine whether any elderberry shrubs with stems at least one-inch dgl are present. If no such elderberry shrubs are present within 165 feet of construction activities, a report shall be submitted to the City for its records and no additional measures are required.<br>f) If elderberry shrubs with stems at least one-inch dgl are present within 165 feet of construction activities, the following avoidance measures shall be implemented, at minimum, in accordance with the VELB Impact Assessment. | | | |

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| | 1. Fencing shall be installed as close to the construction limits as feasible for shrubs occurring within 165 feet.<br>2. In areas where work would occur within near proximity to elderberry shrub, exclusion fencing shall be established a minimum of a 20-foot radius around the shrubs.<br>3. An individual project applicant shall engage a qualified biologist to provide worker awareness training for all contractors, work crews, and any onsite personnel, on the status of the VELB, its host plant and habitat, the need to avoid damaging the shrubs, and the possible penalties for non-compliance.<br>4. Mechanical weed removal within the drip-line of the shrub shall be limited to the season when adults are not active (August - February) and shall avoid damaging the elderberry.<br>g) If elderberry shrubs cannot be avoided or if indirect effects will result in the death of stems or entire shrubs, the elderberry shrubs with stems greater than one-inch dgl shall be transplanted.<br>1. The individual project applicant shall engage a qualified biologist to monitor the transplanting activities.<br>2. Elderberry shrubs shall be transplanted when the shrubs are dormant (November through February 14) and after they have lost their leaves.<br>h) For shrubs that cannot be avoided, the individual project applicant shall purchase compensatory mitigation for impacts to elderberry shrubs. | | | |

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| | The appropriate type and amount of compensatory mitigation shall be determined through coordination with the USFWS. Appropriate compensatory mitigation may include purchasing credits at a USFWS-approved conservation bank at a minimum 1:1 ratio, providing onsite mitigation, and/or establishing and/or protecting habitat for the valley elderberry longhorn beetle.<br><br>**Mitigation Measure 3.4-3: Protection of Migratory Birds and Raptors**<br><br>h) Building demolition and vegetation clearing operations, including initial grading and tree removal, shall occur outside of the nesting season (September 1 through January 31) to the extent feasible. If vegetation removal or building demolition begins during the nesting season (February 1 to August 31), the individual project applicant shall engage a qualified biologist to conduct a pre-construction survey for active nests within a 500-foot buffer around the individual project footprint. The pre-construction survey shall be conducted within 14 days prior to commencement of ground disturbing activities. If the pre-construction survey shows that there is no evidence of active nests, then a report shall be submitted to the City for its records and no additional measures are required. If construction does not commence within 14 days of a pre-construction survey, or halts for more than 14 days, an additional pre-construction survey is required for each period of delay.<br><br>i) If any active nests are located within the construction footprint – including, but not limited to | | | |

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| | individual project site, staging areas, spoils sites, construction access – an appropriate buffer zone shall be established around the nests, as determined by the qualified biologist based on applicable regulatory requirements in force at the time of construction activity. The biologist shall mark the buffer zone with construction tape or pin flags and maintain the buffer zone until the end of breeding season or until the young have successfully fledged or the nest is determined too no longer be active. Buffer zones are typically 50-100 feet for migratory bird nests and 250-500 feet for raptor nests (excluding Swainson's hawk). If active nests are found within the vicinity of the construction areas, the qualified biologist shall monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. If establishing the typical buffer zone is impractical, the qualified biologist shall adjust the buffer depending on the species and daily monitoring would be required to ensure that the nest is not disturbed, and no forced fledging occurs. This daily monitoring shall occur until the qualified biologist determines that the nest is no longer occupied.<br><br>**Additional Measures for Burrowing Owl**<br><br>j) Prior to any individual project construction, the project applicant shall engage a qualified biologist to conduct a habitat assessment to determine if potential nesting habitat is present with an individual project area. If potential nesting habitat is present, nesting and wintering season surveys for burrowing owl shall be conducted to | | | |

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| | determine if potential habitat within 500 feet of ground disturbance is used by this species. As described in Table 3.4-2, suitable burrowing owl habitat includes the annual grassland and agricultural land. The timing and methodology for the surveys shall be conducted in accordance with the current CDFW Staff Report on Burrowing Owl Mitigation (Appendix D-3).5 A minimum of three survey visits should be conducted at least three weeks apart during the peak breeding season between April 15 and July 15. One of these surveys could be conducted at the same time as the nesting bird survey (Mitigation Measure 3.4-3a) should work be anticipated to commence within 14 days and between April 15 and July 15. A winter survey shall be conducted between December 1 and January 31, during the period when wintering owls are most likely to be present.<br><br>k) If an active burrowing owl nest site/active burrow is discovered in the vicinity of an individual project construction footprint – including, but not limited to individual project site, staging areas, spoils sites, construction access – the project applicant shall notify the City and CDFW. A qualified biologist shall monitor the owls and establish a fenced exclusion zone around each occupied burrow. No construction activities shall be allowed within the exclusion buffer zone until such time that the burrows are determined by a qualified biologist to be unoccupied. The buffer zones shall be a minimum of 150 feet from an occupied burrow during the non- | | | |

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| | breeding season (September 1 through January 31) and a minimum of 250 feet from an occupied burrow during the breeding season (February 1 through August 31).<br><br>l) If avoidance is not feasible, the CDFW shall be consulted to develop and the implement avoidance or passive relocation methods. All activities that will result in a disturbance to burrows shall be approved by the CDFW prior to implementation.<br><br>**Additional Measures for Swainson's Hawk**<br><br>m) If construction activities are anticipated to commence during the Swainson's hawk nesting season (March 1 to September 15), the individual project applicant shall engage a qualified biologist to conduct a minimum of two pre-construction surveys during the recommended survey periods in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Appendix D-4).6 All potential nest trees within 0.25 mile of the proposed project footprint shall be visually examined for potential Swainson's hawk nests, as accessible. If no active Swainson's hawk nests are identified on or within 0.25 mile of the proposed project, a report documenting the survey methodology and findings should be submitted to the City for its files and no additional mitigation measures are required.<br><br>n) If active Swainson's hawk nests are found within 0.25 mile of construction activities, a survey report shall be submitted to the | | | |

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| | CDFW and the CNDDB, and an avoidance and minimization plan shall be provided to and approved by the CDFW prior to the start of construction of the given development proposal. The avoidance plan shall identify measures to avoid or minimize impacts to the active Swainson's hawk nest. These measures may include, but are not limited to:<br>1. Conducting a Worker Awareness Training Program prior to the start of construction;<br>2. Establishing a buffer zone and work schedule to avoid impacting the nest during critical periods. If practicably feasible, no work will occur within 200 yards of the nest while it is in active use. If work will occur within 200 yards of the nest, then construction shall be monitored by a qualified biologist to ensure that no work occurs within 50 yards of the nest during incubation or within ten days after hatching;<br>3. Having a qualified biological monitor conduct regular monitoring of the nest during construction activities; and<br>4. Allowing the qualified biologist to halt construction activities until CDFW determines that the construction activities are disturbing the nest.<br>**Mitigation Measure 3.4-4: Protection of Bat Species**<br>c) The individual project applicant shall engage a qualified biologist to conduct a pre-construction survey for special-status bat species within 14 days prior to the start of tree or | | | |

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| | building removal within the BSMP project site. If no special-status bats are observed roosting, a report shall be submitted to the City for its records and no additional measures are required. If construction does not commence or if any trees or buildings anticipated for removal are not removed within 14 days of the pre-construction survey or halts for more than 14 days, a new survey and reporting shall be conducted.<br><br>d) If bats including pallid bats are found, the qualified biologist shall consult with the CDFW to determine and implement avoidance measures. Avoidance measures may include, but are not limited to, establishing a buffer around the roost tree, or building until it is no longer occupied or installing exclusion material around the tree/opening of the building after dusk, once the qualified biologist has determined that the bat has left the roost to forage. The tree or building shall not be removed until a biologist has determined that the tree or building is no longer occupied by the bats.<br><br>**Mitigation Measure 3.4-6: Rare Plant Protection**<br><br>d) The individual project applicant shall retain a qualified biologist to conduct focused botanical protocol-level surveys in the nonnative annual grassland for dwarf downingia (blooms March through May) and Ferris' mile-vetch (blooms April through May) and in the non-native grassland and oak woodland for Baker's navarretia (blooms April through July) and Hartweg's golden sunburst (blooms March through April). Surveys shall be conducted during blooming periods for all | | | |

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| | special-status species. (It is noted that the blooming periods for these plant species overlap in the month of April.) If no special-status plants are observed within the survey area, then a report shall be submitted to the City and no additional mitigation is required so long as construction commences within two years of the survey.<br><br>e) If Baker's navarretia, dwarf downingia, or Ferris' milk-vetch are observed within the project site, the plants should be avoided with a minimum 10-foot avoidance buffer with exclusion fencing, to the extent feasible. If these special-status plants cannot be avoided, a mitigation plan shall be prepared by a qualified botanist. At minimum, the mitigation plan shall include locations where the plants will be transplanted, success criteria, and monitoring activities for the transplanted populations. The mitigation plan shall be finalized prior to transplantation and commencement of construction activities.<br><br>f) If the federal and state endangered Hartweg's golden sunburst is observed, the plants shall be avoided to the extent feasible.<br><br>1. If the plants cannot be avoided, the individual project applicant shall obtain a CESA Section 2081(b) Incidental Take Permit. Measures to minimize the take and to mitigate the impacts caused by the take shall be set forth in one or more conditions of the permit. Potential conservation measures include, but are not limited to, purchasing credits from a mitigation bank, establishing a | | | |

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| | preserve, and/or preparing a mitigation plan.<br>2. If the plants cannot be avoided and if the project requires USFWS Section 7 consultation (i.e., would impact a jurisdictional wetland or water of the U.S. requiring a Section 404 CWA permit), consultation with the USFWS through the Section 7 process shall occur to determine any additional avoidance, conservation, and mitigation measures that may be needed for the species, if any. The individual project applicant is not required to consult for impacts to federally listed plants without a federal nexus. | | | |
| 3.5 Cultural Resources | Mitigation Measure 3.5-2(a): Protection of Archaeological Resources (Only if the results of implementation of Mitigation 3.5-2(b) necessitates its use).<br>Archaeological Monitoring Plan. Prior to issuance of grading permits or ground-disturbing construction activity in the Newkom Ranch and Kells East Ranch properties, the project applicant shall prepare and submit an Archaeological Monitoring Plan to the City of Yuba City for review and approval. Monitoring shall be required for all surface alteration and subsurface excavation work, including trenching, boring, grading, use of staging areas and access roads, and driving vehicles and equipment. A Secretary of the Interior-qualified professional archaeologist (project archaeologist) shall prepare the plan. The plan shall address (but not be limited to) the following issues:<br>• Training program for all construction and field workers involved in site disturbance; | Developer | Development Services Department | Prior to issuance of grading permit |

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| | • Person(s) responsible for conducting monitoring activities, including both archaeological and Native American monitors;<br>• How the monitoring shall be conducted and the required format and content of monitoring reports, including the need to conduct trenching, shovel-test units, or auger samples to identify archaeological deposits in advance of construction, assessment, designation, and mapping of the sensitive cultural resource areas on final project maps, assessment, and survey of any previously un-surveyed areas;<br>• Person(s) responsible for overseeing and directing the monitors;<br>• Schedule for submittal of monitoring reports and person(s) responsible for review and approval of monitoring reports;<br>• Procedures and construction methods to avoid sensitive cultural resource areas (i.e., planning construction to avoid the resource, incorporating the resource within open space, capping, and covering the resource, or deeding the site into a permanent conservation easement);<br>• Clear delineation and fencing of sensitive cultural resource areas;<br>• Physical monitoring boundaries;<br>• Protocol for notifications in case of encountering of cultural resources, as well as methods of dealing with the encountered resources (e.g., collection, identification, curation);<br>• Methods to ensure security of cultural resources; | | | |

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| | • Protocol for notifying local authorities (i.e. Sheriff, Police) should site looting and other illegal activities occur during construction.<br><br>Archaeological and Native American Monitoring. If an intact archaeological resource is encountered, all soil disturbing activities in the vicinity of the resource shall cease until it is evaluated. The project archaeologist shall immediately notify the City of Yuba City of an encountered archaeological resource. The project archaeologist and Native American monitor shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological resource, present the findings of this assessment to the City.<br><br>During the course of the monitoring, the project archaeologist and Native American monitor may adjust the frequency—from continuous to intermittent—of the monitoring based on the conditions and professional judgment regarding the potential to impact resources.<br><br>If the City, in consultation with the project archaeologist and Native American monitor, determines that a significant archaeological resource is present and that the resource could be adversely impacted by the project, the City shall:<br><br>• Determine whether preservation in place is feasible. Consistent with CEQA Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. | | | |

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| | • If avoidance is not feasible, prepare and implement a detailed Archaeological Research Design and Treatment Plan. Treatment of archaeological resources will follow the applicable requirements of Public Resources Code Section 21083.2. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals.<br><br>• If potential human remains are encountered, all work will halt in the vicinity of the find and the City will contact the county coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5. If the coroner determines the remains are Native American, the coroner shall contact the Native American Heritage Commission. As provided in Public Resources Code Section 5097.98, the Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations for means of treating, with appropriate dignity, the human remains, and any associated grave goods as provided | | | |

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| | in Public Resources Code Section 5097.98.<br><br>Mitigation Measure 3.5-2(b): Protection of Historic Archaeological Resources<br><br>3.4.2. When BSMP-level development plans outside the Newkom Ranch and Kells East Ranch properties are submitted to the City of Yuba City for approval, the project applicant shall be required to complete a cultural resources investigation for review and approval by the City that includes, at a minimum:<br><br>• An updated records search at the Northeast Information Center;<br><br>• Updated Native American consultation in coordination with the Native American Heritage Commission<br><br>• An intensive archaeological survey of the development area;<br><br>• A geoarchaeological assessment for the potential for buried archaeological resources;<br><br>• A report that documents the results of the investigation; and<br><br>• Recommendations for mitigation to resolve adverse impacts to significant archaeological resources or human remains. The survey shall be carried out by a qualified archaeologist meeting the Secretary of the Interior's Standards for Archaeology and can be documented in the same document | | | |

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| | as required in Mitigation Measure 3.5-2(a). | | | |
| 3.8 Greenhouse Gases | **Mitigation Measure 3.7-1(a): Residential Building Insulation**<br><br>Prior to building construction, individual project applicants shall submit to the City building plans demonstrating how all proposed residential buildings include greatly enhanced building insulation materials such as spray foam wall insulated walls R-15 or greater, roof/attic R-38 or higher. The individual project applicants shall also demonstrate how all proposed residential buildings include modestly enhanced window insulation such as 0.4 U-Factor or 0.32 SHGC. | Developer | Development Services Department | Prior to issuance of building permit |
| 3.9 Hazards and Hazardous Materials | **Mitigation Measure 3.8-2: Conduct Phase I Environmental Site Assessment**<br><br>b) Prior to final project design of any individual project pursuant to the BSMP that includes any earth-disturbing activities, the applicant shall submit to the City a Phase I Environmental Site Assessment (Phase I ESA). The Phase I ESA shall be prepared in general accordance with ASTM Standard E1527-13, Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process (or most current edition that is in force at the time of final project design), which is the current industry standard. The Phase I ESA shall include a records review of appropriate federal, State, and local databases within ASTM-listed search distances regarding hazardous materials use, storage, or disposal at the given site, a review of historical topographic maps and aerial photographs, a site reconnaissance, interviews with | Developer | Public Works Department | Prior to issuance of grading permit |

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| | persons knowledgeable about the sites historical uses, and review of other relevant existing information that could identify the potential existence of Recognized Environmental Conditions, including hazardous materials, or contaminated soil or groundwater. If no Recognized Environmental Conditions are identified, then no further action would be required.<br><br>b) If Recognized Environmental Conditions are identified and the Phase I ESA recommends further action, the applicant shall conduct the appropriate follow-up actions, which may include further records review, sampling of potentially hazardous materials, and possibly site cleanup. In the event that site cleanup is required, the project shall not proceed until the site has been cleaned up to the satisfaction of the appropriate regulatory agency (e.g., DTSC, RWQCB, or SC EHD) such that the regulatory agency issues a No Further Action letter or equivalent. | | | |
| 3.13 Noise | **Mitigation Measure 3.11-1: Construction Noise Measures**<br><br>Individual project applicants of new development (excluding renovation of existing buildings) shall require construction contractors to implement the following measures during all phases of project construction:<br><br>a) Whenever stationary noise sources – such as generators and compressors – are used within line of sight to occupied residences (on- or off-site), temporary barriers shall be constructed around the source to shield the ground floor of the noise-sensitive uses. These barriers shall be of ¾-inch Medium Density Overlay (MDO) plywood sheeting, or other material of equivalent utility | Developer | Development Services Department | Prior to issuance of grading permit |

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| | and appearance to achieve a Sound Transmission Class of STC-30, or greater, based on certified sound transmission loss data taken according to ASTM Test Method E90 or as approved by the City of Yuba City Building Official.<br><br>b) Construction equipment staging areas shall be located as far as feasible from residential areas while still serving the needs of construction contractors.<br><br>c) Equipment and trucks used for construction will use the industry standard noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating a shields or shrouds, wherever feasible).<br><br>d) Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically- or electrically powered where feasible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dB. External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dB. Quieter procedures, such as use of drills rather than impact tools, shall be used whenever feasible. | | | |
| 3.17 Transportation/ Traffic | **Mitigation Measure 3.14-1(a): Yuba City Intersections:** The project applicant(s) shall construct the following improvements. The timing of the need for these improvements will depend on | Developer | Public Works Department | Prior to recording final map |

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| | the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.<br>i. Install a traffic signal and widen the eastbound and southbound approaches to provide dedicated left-turn pockets at the Bogue Road/South Walton Avenue intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).<br>ii. Install a traffic signal at the Railroad Avenue/Lincoln Road intersection (in conjunction with existing lane configurations).<br>iii. Install a traffic signal at the Bogue Road/Phillips Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).<br>iv. Install a traffic signal at the Bogue Road/Railroad Avenue intersection and widen/restripe the northbound and southbound approaches to provide dedicated left-turn pockets (in conjunction with lane configurations planned under existing plus BSMP conditions).<br>v. Install a traffic signal at the Gilsizer Ranch Way/Bogue Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).<br>**Mitigation Measure 3.14-3: Caltrans Intersections LOS:** The project applicant(s) shall construct the | | | |

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| | improvements described below. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff and Caltrans regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.<br><br>i. Widen the SR 99/Bogue Road intersection to provide a second southbound left-turn lane that provides 500 feet of storage in each lane. Widen Bogue Road to construct a second eastbound and westbound left-turn lane. Restripe westbound Bogue Road approaching SR 99 to consist of two left-turn lanes, one through lane, and one right-turn lane (with the right-turn consisting of an overlap arrow); and<br><br>ii. Install a traffic signal at the SR 99/Stewart Road intersection.<br><br>**Mitigation Measure 3.14-4(a):** Caltrans Intersections Queuing: Implement Mitigation Measure 3.14-3(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane. To address queuing impacts in the southbound left-turn lane prior to the overall intersection LOS reaching an unacceptable level, the second left-turn lane is necessary. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic | | | |

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| | growth. The applicant shall coordinate with City staff and Caltrans regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.<br><br>**Mitigation Measure 3.14-7(a): Cumulative Yuba City Intersections**<br><br>i. Implement Mitigation Measure 3.14-1(a)(i): Install traffic signal and add turn lanes at the Bogue Road/South Walton Avenue intersection.<br><br>ii. Implement Mitigation Measure 3.14-1(a)(iii): Install traffic signal at the Bogue Road/Phillips Road intersection.<br><br>iii. Implement Mitigation Measure 3.14-1(a)(iv): Install a traffic signal and add turn lanes at the Bogue Road/Railroad Avenue intersection.<br><br>iv. Implement Mitigation Measure 3.14-1(a)(v): Install traffic signal at the Gilsizer Ranch Way/Bogue Road intersection.<br><br>v. Contribute fair share cost for restriping the eastbound approach at the Garden Highway/Bogue Road intersection from a through lane to a shared through/right lane and modifying the signal phasing to east-west split-phase.<br><br>**Mitigation Measure 3.14-9(a): Cumulative Caltrans Intersections LOS**<br><br>i. Implement Mitigation Measure 3.14-3(a)(i): Add turn lanes at the SR 99/Bogue Road intersection.<br><br>ii. Implement Mitigation Measure 3.14-3(a)(ii): Install traffic signal at | | | |

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| | the SR 99/Stewart Road intersection.<br><br>iii. Contribute fair share cost for adding a second northbound left-turn lane and adding dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection.<br><br>iv. Contribute fair share cost for installing a traffic signal at the SR 99/Hunn Road intersection.<br><br>v. Contribute fair share cost for installing a traffic signal at the SR 99/Smith Road intersection.<br><br>**Mitigation Measure 3.14-10(a): Cumulative Caltrans Intersections Queuing (BSMP)**<br><br>i. Implement Mitigation Measure 3.14-3(a)(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane.<br><br>ii. Implement Mitigation Measure 3.14-9(a)(iii), which consists of paying fair share cost of adding a second northbound left-turn lane and dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection. | | | |
| 3.18 Tribal Cultural Resources | **Mitigation Measure 3.5-2(b): Protection of Historic Archaeological Resources:**<br><br>When BSMP-level development plans outside the Newkom Ranch and Kells East Ranch properties are submitted to the City of Yuba City for approval, the project applicant shall be required to complete a cultural resources investigation for review and approval by the City that includes, at a minimum: | Developer | Development Services Dept. | Prior to issuance of grading permit |

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| | • An updated records search at the Northeast Information Center;<br>• Updated Native American consultation in coordination with the Native American Heritage Commission.<br>• An intensive archaeological survey of the development area;<br>• A geoarchaeological assessment for the potential for buried archaeological resources;<br>• A report that documents the results of the investigation; and<br>• Recommendations for mitigation to resolve adverse impacts to significant archaeological resources or human remains. | | | |
| 3.19 Utilities and Service Systems | **Mitigation Measure 3.15-1: Water Supply Capacity**<br>Individual project applicants shall pay the fair share of costs for each development's proportion of the water supply deficits estimated through 2040. The payments shall be directed to a City fund for the construction and operation of new groundwater well(s) as determined by the City. The City shall reflect the requirement for the fair share payment for each development in any future development agreement in the BSMP site, and payment shall be made to the City prior to final tentative map approval and building permit.<br>b) The City shall construct new groundwater well(s) to be operable and sufficient to serve the water supply demands of each development approved prior to year 2030. The groundwater well(s) shall be constructed to produce sufficient water to make up the shortfalls in any given single-dry year or the first | Developer | Public Works Department | Prior to recording final subdivision map |

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| | year of a multi-dry year scenario as determined by the City.<br>c) The City shall not approve a final tentative map or building permit for any development pursuant to the proposed BSMP or City beyond the supplies available from 2030 through 2040 without a reliable source of water supply to meet the shortfalls in the single-dry year or the first year of a multi-dry year scenario, as detailed above. | | | |

**Future Agenda Items**

- Councilmember Boomgaarden
- Councilmember Kirchner
- Councilmember Pasquale
- Vice Mayor Shaw
- Mayor Harris

**Reports and Communications**

The following reports and communication items are provided for the Council's information. No action can be taken on items under this section unless the Council agrees to include it on a subsequent agenda

**City Manager's Report**

## Reports and Communications

The following reports and communication items are provided for the Council's information. No action can be taken on items under this section unless the Council agrees to include it on a subsequent agenda

### City Council Reports

- Councilmember Boomgaarden
- Councilmember Kirchner
- Councilmember Pasquale
- Vice Mayor Shaw
- Mayor Harris

## Adjournment