



Central Valley Regional Water Quality Control Board

CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

Effective Date: 6 October 2023

Expiration Date: 5 October 2028

Program Type: Fill/Excavation

Project Type: Commercial

Project: Placer Commerce Center Project (Project)

Applicant: Buzz Oates Construction, Inc.

Applicant Contact: Joe Livaich
Buzz Oates Construction, Inc.
555 Capitol Mall, Suite 900
Sacramento, CA 95814
Phone: (916) 379-3874
Email: joelivaich@buzzoates.com

Applicant's Agent: Sarah VonderOhe
Madrone Ecological Consulting, LLC
8421 Auburn Boulevard, Suite 248
Citrus Heights
Phone: (916) 822-3230
Email: svonderohe@madroneeco.com

Water Board Staff: Nicholas Savino
Environmental Scientist
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
Phone: (916) 464-4920
Email: Nicholas.Savino@waterboards.ca.gov

Water Board Contact Person: If you have any questions, please call Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) Staff listed above or (916) 464-3291 and ask to speak with the Water Quality Certification Unit Supervisor.

| | |
|----------------------|----------------|
| Reg. Meas. ID: | 453166 |
| Place ID: | 888980 |
| WDID No.: | 5A31CR00598 |
| USACE No.: | SPK-2002-00704 |
| Letter of Permission | |

Table of Contents

I. Order 3

II. Public Notice..... 3

III. Project Purpose 3

IV. Project Description 3

V. Project Location..... 3

VI. Project Impact and Receiving Waters Information..... 4

VII. Description of Direct Impacts to Waters of the State 4

VIII. Description of Indirect Impacts to Waters of the State..... 4

IX. Avoidance and Minimization 5

X. Compensatory Mitigation 11

XI. California Environmental Quality Act (CEQA)..... 11

XII. Petitions for Reconsideration..... 11

XIII. Fees Received..... 11

XIV. Conditions 12

XV. Water Quality Certification..... 27

Attachment A – Project MapsA-1

Attachment B – Receiving Waters, Impacts and Mitigation InformationB-1

Attachment C – CEQA Findings of Fact C-1

Attachment D – Reports and Notification Requirements D-1

Attachment E – Signatory Requirements.....E-1

Attachment F – Certification Deviation Procedures F-1

Attachment G - Compliance with Code of Federal Regulations, Title 40, Section 121.7, Subdivision (d)..... G-1

I. Order

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of Buzz Oates Construction, Inc. (hereinafter Permittee) for the Project. This Order is for the purpose described in the application submitted by the Permittee. The application was received on 22 June 2023. The application was deemed complete on 21 July 2023. Central Valley Water Board staff requested additional information necessary to supplement the contents of the complete application and the Permittee responded to the request for supplemental information on the following dates:

Date of Request for Supplemental Information: **21 July 2023**
Date all requested information was received: **19 September 2023**

II. Public Notice

The Central Valley Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from 23 June 2023 to 14 July 2023. The Central Valley Water Board did not receive any comments during the comment period.

III. Project Purpose

The purpose of the project is to construct a multi-tenant business park and install associated infrastructure.

IV. Project Description

The 504-acre project will grade the project site in order to support developing a multi-tenant business park, vehicle parking areas, off-site infrastructure, and an onsite stormwater system made up of five storm water detention areas on the perimeter of the building area and numerous smaller storm water retention facilities distributed throughout the site. The project was developed in accordance with the Placer County Conservation Program (PCCP) Watershed Plan.

V. Project Location

Address: South of Athens Avenue between 1300 Athens Ave and 2700 Athens Ave

County: Placer

Assessor's Parcel Numbers: 017-063-048, 017-063-050, 017-063-054

Nearest City: Lincoln

Section 5, Township 12 North, Range 6 East, MDB&M.

Latitude: 38.83896° and Longitude: -121.335407°

Maps showing the Project location are found in Attachment A of this Order.

VI. Project Impact and Receiving Waters Information

The Project is located within the jurisdiction of the Central Valley Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, February 2019 (Basin Plan). The plan for the region and other plans and policies may be accessed at the [State Water Resources Control Board's Plans and Policies Web page](http://www.waterboards.ca.gov/plans_policies/) (http://www.waterboards.ca.gov/plans_policies/). The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies.

It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

Project impact and receiving waters information can be found in Attachment B. Table 1 of Attachment B shows the receiving waters and beneficial uses of waters of the state impacted by the Project. Individual impact location and quantity is shown in Table 2 of Attachment B.

VII. Description of Direct Impacts to Waters of the State

Total Project fill/excavation quantities for all impacts are summarized in Table 1. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition.

Table 1: Total Project Fill/Excavation Quantity for Permanent Physical Loss of Area Impacts

| Aquatic Resources Type | Acres | Cubic Yards | Linear Feet |
|------------------------|-------|-------------|-------------|
| Roadside Ditch | 0.12 | 186 | 4,193 |
| Vernal Pool | 5.05 | 8,144 | |
| Seasonal Wetland | 2.29 | 3,698 | |

VIII. Description of Indirect Impacts to Waters of the State

The Central Valley Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. The Project will result in an increase in impervious surfaces, which has the potential to reduce the water quality of receiving waters. By constructing an onsite stormwater treatment system, indirect impacts to receiving waters from stormwater runoff are expected to be avoided.

IX. Avoidance and Minimization

To minimize the potential effects of construction on water quality and resources, the Permittee shall implement all measures required as described in the Order.

According to the Permittee, the following measures will be in place during construction activities to avoid, reduce, and minimize impacts to waters of the state:

The project will comply with the following PCCP conditions on covered activities to minimize impacts:

General Conditions:

- General Condition 1, Watershed Hydrology and Water Quality (PCCP Section 6.3.1.1)
- General Condition 2, Conservation Lands: Development Interface Design Requirements (PCCP Section 6.3.1.2)
- General Condition 3, Land Conversion (PCCP Section 6.3.1.3)
- General Condition 5, Conduct Worker Training (PCCP Section 6.3.1.5)

Community Condition 1, Wetland Avoidance and Minimization (Vernal Pool and Aquatic/Wetland Complex) (PCCP Section 6.3.2.1)

- Community Condition 1.1 Avoidance of Vernal Pool Complex Constituent Habitat

Conditions to Avoid, Minimize, and Mitigate Effects on the Stream System (PCCP Chapter Section 6.3.3)

- Stream System Condition 1, Stream System Avoidance and Minimization
- Stream System Condition 2, Stream System Mitigation: Restoration Stream

Conditions to Minimize Effects on Covered Species (PCCP Section 6.3.5)

- Species Condition 1, Swainson's Hawk (PCCP Section 6.3.5.6)
- Species Condition 3, Western Burrowing Owl (PCCP Section 6.3.5.8)
- Species Condition 4, Tricolored Blackbird (PCCP Section 6.3.5.9)
- Species Condition 10, Vernal Pool Fairy Shrimp and Vernal Pool Tadpole Shrimp (PCCP Section 6.3.5.15)

County Aquatic Resources Program (CARP) Conditions of Approval

- CARP Condition 1a: All work within the Plan Area that impacts Aquatic Resources of Placer County shall be completed according to the plans and documents included in the PCCP/CARP application, Standard U.S. Army Corps of Engineers (USACE) 404 permit if applicable, Water Quality Certification, or, if applicable, Waste Discharge

Requirements (WDR). All changes to those plans shall be reported to the Local Jurisdiction. Minor changes may require an amendment to the CARP Authorization, Water Quality Certification, or, if applicable, WDR. Substantial changes may render the CARP authorization, USACE permit, Water Quality Certification, if applicable, WDR, void, and a new application may be required.

- CARP Condition 1b: All deviations from plans and documents provided with the Application and approved by the Local Jurisdiction must be reported to the Local Jurisdiction immediately.
- CARP Condition 2: Any construction within the Stream System shall be implemented in a way to avoid and minimize impacts to vegetation outside the construction area. All preserved wetlands, other Aquatic Resources of Placer County, and the Stream Zone shall be protected with bright construction fencing. Temporary fencing shall be removed immediately upon completion of the project.
- CARP Condition 3: Erosion control measures shall be specified as part of the CARP application, and the application is not complete without them. All erosion control specified in the permit application shall be in place and functional before the beginning of the rainy season and shall remain in place until the end of the season. Site supervisors shall be aware of weather forecasts year-round and shall be prepared to establish erosion control on short notice for unusual rain events. Erosion control features shall be inspected and maintained after each rainfall period. Maintenance includes, but is not limited to, removal of accumulated silt and the replacement of damaged barriers and other features.
- CARP Condition 4: All required setbacks shall be implemented according to the Habitat Conservation Plan/Natural Communities Conservation Program (HCP/NCCP) Condition 4 (HCP/NCCP Section 6.1.2).
- CARP Condition 5: All work in aquatic resources within the Stream System shall be restricted to periods of low flow and dry weather between April 15 and October 15, unless otherwise permitted by Local Jurisdictions and approved by the appropriate State and federal regulatory agency. Work within aquatic resources in the Stream System outside of the specified periods may be permitted under some circumstances. The Applicant must provide the Local Jurisdiction with the following information: a) the extent of work already completed; b) specific details about the work yet to be completed; and c) an estimate of the time needed to complete the work in the Stream System.
- CARP Condition 6: Weather forecasts should be monitored, and erosion control established before all storm events.

- CARP Condition 7: Following work in a stream channel, the low flow channel shall be returned to its natural state to the extent possible. The shape and gradient of the streambed shall be restored to the same gradient that existed before the work to the extent possible.
- CARP Condition 10: No vehicles other than necessary earth-moving and construction equipment shall be allowed within the Stream System after the section of stream where work is performed is dewatered. The equipment and vehicles used in the Stream System shall be described in the Application.
- CARP Condition 11: Staging areas for equipment, materials, fuels, lubricants, and solvents shall be located outside the stream channel and banks and away from all preserved aquatic resources. All stationary equipment operated within the Stream System must be positioned over drip-pans. Equipment entering the Stream System must be inspected daily for leaks that could introduce deleterious materials into aquatic resources. All discharges, unintentional or otherwise, shall be reported immediately to the Local Jurisdiction. The Local Jurisdiction shall then immediately notify the appropriate state and federal agencies.
- CARP Condition 12: Cement, concrete, washings, asphalt, paint, coating materials, oil, other petroleum products, and other materials that could be hazardous to aquatic life shall be prevented from reaching streams, lakes, or other water bodies. These materials shall be placed a minimum of 50 feet away from aquatic environments. All discharges, unintentional or otherwise, shall be reported immediately to the Local Jurisdiction. The Local Jurisdiction shall then immediately notify the appropriate state and federal agencies.
- CARP Condition 13: During construction, no litter or construction debris shall be dumped into water bodies or other aquatic resources; nor shall it be placed in a location where it might be moved by wind or water into aquatic resources. All construction debris shall be removed from the site upon completion of the project.
- CARP Condition 14: Only herbicides registered with the California Department of Pesticide Regulation shall be used in streams, ponds, and lakes, and shall be applied in accordance with label instructions. A list of all pesticides that may be used in the project area shall be submitted to the Local Jurisdiction before use.
- CARP Condition 15: Before beginning construction, the project Applicant must have a valid CARP authorization or waiver notice. In order to obtain a permit, the Applicant must pay all mitigation fees or purchase appropriate credits from an agency-approved mitigation bank.

- CARP Condition 16: A copy of the CARP conditions and Water Quality Certification and WDRs shall be given to individuals responsible for activities on the site. Site personnel, (employees, contractors, and subcontractors) shall be adequately informed and trained to implement all permit, Water Quality Certification, and WDR conditions and shall have a copy of all permits available onsite at all times for review by site personnel and agencies.
- CARP Condition 17: Work shall not disturb active bird nests until young birds have fledged. To avoid impacts to nesting birds, any disturbance shall occur between September 1 and February 1 prior to the nesting season. Tree removal, earthmoving or other disturbance at other times is at the Local Jurisdiction's discretion and will require surveys by a qualified biologist to determine the absence of nesting birds prior to the activity.
- CARP Condition 19: The Local Jurisdiction shall be notified immediately if threatened or endangered species that are not Covered Species are discovered during construction activities. The Local Jurisdiction shall suspend work and notify the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and the CDFW for guidance.
- CARP Condition 20: Wildlife entering the construction site shall be allowed to leave the area unharmed or shall be flushed or herded humanely in a safe direction away from the site.
- CARP Condition 21: All pipe sections shall be capped or inspected for wildlife before being placed in a trench. Pipes within a trench shall be capped at the end of each day to prevent entry by wildlife, except for those pipes that are being used to divert stream flow.
- CARP Condition 22: At the end of each workday, all open trenches will be provided with a ramp of dirt or wood to allow trapped animals to escape.
- CARP Condition 23: If human remains or cultural artifacts are discovered during construction, the Applicant shall stop work and notify the Local Jurisdiction immediately. Work will not continue in the area until a qualified coroner and archaeologist have evaluated the remains, conducted a survey, prepared an assessment, and required consultations are completed.

PCCP Stream System Avoidance and Minimization Measures

- All Covered Activities shall minimize the area of disturbance in Stream System to the maximum extent practicable.
- To minimize impact of new construction, existing access routes and levee roads shall be used.

- Rock riprap may only be used to stabilize channels experiencing extreme erosion or posing a threat to public safety. When used, rock riprap must be large enough and installed to withstand a 100-year flow event and planted with native riparian species suitable for planting in such a manner.
- To minimize the effect of increased local erosion due to in-channel vegetation removal, the top of the bank shall be protected by leaving vegetation in place to the maximum extent possible.
- Avoid access routes on slopes of greater than 20 percent used to access upland areas adjacent to streams and riparian areas. Any upland access across sloped areas shall be examined for evidence of instability and either revegetated or filled to prevent future landslide or erosion.
- Avoid activities in the active (i.e., flowing) channel to the maximum extent practicable, especially during the migration, spawning, and egg incubation season for listed fish species, or before amphibians have undergone metamorphosis. If activities must be conducted in the active channel, limit the use of equipment for in-water work to hand tools to the extent practicable.
- Bank stabilization site design shall evaluate hydraulic effects immediately upstream and downstream of the work area to minimize downstream erosion caused by changes in water velocity. Design of bank stabilization projects shall incorporate similar roughness and characteristics of the bank surrounding the project area.
- A qualified biologist will train all personnel working within or adjacent to the Stream System (i.e., those people operating ground-disturbing equipment) regarding these avoidance and minimization measures and the permit obligations of project applicants working under this Plan.
- Personnel shall utilize equipment that minimizes the area and degree of disturbance, such as appropriately-tired vehicles (either tracked or wheeled, depending on the situation), or avoidance of vehicles if possible.
- No vehicles other than necessary construction equipment shall be allowed within the Stream System.
- All wetlands, other waters, and Stream Systems that are adjacent to a Covered Activity project site and that will be avoided shall be marked with bright construction fencing. Temporary fencing shall be removed upon completion of the project.
- Deep pools located outside and adjacent to the construction footprint shall be fenced or blocked with barriers to prevent encroachment of equipment and personnel from affecting deep-pool habitats, which are

used as refuge for fish and wildlife.

- When practicable, avoid maintenance and construction activities at night. When night work cannot be avoided:
 - Minimize use of temporary lighting.
 - Shield and focus lights on work areas.
 - Use the lowest intensity lighting necessary to complete the work.
- Wildlife entering the construction site shall be allowed to leave the area unharmed or shall be flushed or herded humanely in a safe direction from the site.
- All utility pipe sections shall be capped or inspected for wildlife before being placed in a trench. Pipes within a trench shall be capped at the end of each day to prevent entry by wildlife.
- At the end of each workday all open trenches will be provided with a ramp of dirt or wood to allow trapped animals to escape.
- Staging and storage areas for equipment, stockpiled materials, fuels, lubricants, and solvents shall be located outside of the Stream System. If site conditions prevent locating staging areas outside the Stream System, at a minimum they shall be located outside the top of the bank, ideally on an existing disturbed area (e.g., access road) or other area that can be readily returned to pre-project conditions at the conclusion of the activity.
- Handle and dispose of invasive plant species removed during Covered Activity implementation in such a manner as to prevent further spread of the invasive species.
- To minimize the spread of pathogens all staff working in aquatic systems (i.e., streams, ponds, and wetlands), including site monitors, construction crews, and surveyors, will adhere to the most current guidance for equipment decontamination provided by the Wildlife Agencies at the time of activity implementation.
- Only herbicides registered with the California Department of Pesticide Regulation shall be used in streams, ponds, and lakes, and shall be applied in accordance with label instructions. A list of all pesticides that may be used in the project area shall be submitted to the PCA before use. The USFWS and NMFS do not issue incidental take permits for pesticide and rodenticide use; pesticide and rodenticide use, and resultant “take” of ESA-listed species, are not covered under this Plan for the federal permits.
- Avoid or minimize the amount of fertilizer used during hydro seeding to minimize introducing these materials into waterways.

- Temporary fills, such as for access ramps, diversion structures, or cofferdams, shall be completely removed upon finishing the work.
- The stream bed will be returned to as close to pre-project condition—considering such characteristics as elevations, profile, and gradient—as appropriate. Ecologically improved conditions shall be incorporated into project design when appropriate.
- Any disturbed soils will be revegetated with native plants; non-invasive species; or non-reproductive (i.e., sterile hybrids) plants suitable for the altered soil conditions.

The Project added 317.25 acres of impervious surfaces. Impervious surfaces cause reduced base flows through decreased groundwater recharge; increased erosion and sedimentation via hydro-modification (i.e., any activity that increases the velocity and volume (flow rate) affecting residence time and alters the natural timing of runoff); and accumulation of pollutants that are subsequently discharged in storm water after construction. With the implementation of Low Impact Development (LID) treatments, the effects of impervious surfaces were minimized to the following waters of the state: Orchard Creek and Pleasant Grove Creek.

X. Compensatory Mitigation

The Permittee has agreed to provide compensatory mitigation for direct impacts, described in section XIV.K for permanent impacts.

XI. California Environmental Quality Act (CEQA)

On 10 December 2019, Placer County, as lead agency, certified an Environmental Impact Report/Environmental Impact Statement (EIR/EIS) (State Clearinghouse (SCH) No. 2016112012) for the Sunset Area Plan and Placer Ranch Specific Plan and filed a Notice of Determination (NOD) at the SCH on 11 December 2019. On 13 December 2022, Placer County adopted an Addendum to the Sunset Area Plan and Placer Ranch Specific Plan for the Placer Commerce Centre Project and filled a NOD at the SCH on 14 December 2022. Pursuant to CEQA, the Central Valley Water Board has made Findings of Facts (Findings) which support the issuance of this Order and are included in Attachment C.

XII. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within 30 calendar days of the issuance of this Order.

XIII. Fees Received

An application fee of \$2,734.00 was received on 26 June 2023. The fee amount was determined as required by California Code of Regulations, title 23, sections

3833(b)(3) and 2200(a)(3) and was calculated as Category A – Fill and Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

An additional fee of \$178,793.00 based on total Project impacts was received on 19 September 2023.

XIV. Conditions

The Central Valley Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watersheds of the Project. In accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions:

A. Authorization

Impacts to waters of the state shall not exceed quantities shown in Table 1.

B. Reporting and Notification Requirements

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment D, including specifications for photo and map documentation during the Project. Written reports and notifications must be submitted using the Reporting and Notification Cover Sheet located in Attachment D, which must be signed by the Permittee or an authorized representative.

The Permittee must submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to:

centralvalleysacramento@waterboards.ca.gov.

In the subject line of the email, include the Central Valley Water Board Contact, Project Name, and WDID No. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

1. Project Reporting

- a. Monthly Reporting:** The Permittee must submit a Monthly Report to the Central Valley Water Board on the 1st day of each month beginning the month after the submittal of the Commencement of Construction Notification. Monthly reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee.
- b. Annual Reporting:** The Permittee shall submit an Annual Report each year on the 1st day of the month, one year after the effective date of the Order. Annual reporting shall continue until the Central Valley Water Board issues a Notice of Project Complete Letter to the Permittee.

2. Project Status Notifications

- a. **Commencement of Construction:** The Permittee shall submit a Commencement of Construction Report at least seven (7) days prior to start of initial ground disturbance activities and corresponding Waste Discharge Identification Number (WDID No.) issued under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002).
- b. **Request for Notice of Completion of Discharges Letter:** The Permittee shall submit a Request for Notice of Completion of Discharges Letter following completion of active Project construction activities, including any required restoration and permittee-responsible mitigation. This request shall be submitted to the Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, Central Valley Water Board staff shall issue a Notice of Completion of Discharges Letter to the Permittee which will end the active discharge period.
- c. **Request for Notice of Project Complete Letter:** The Permittee shall submit a Request for Notice of Project Complete Letter when construction and/or any post-construction monitoring is complete, and no further Project activities will occur. Completion of post-construction monitoring shall be determined by Central Valley Water Board staff and shall be contingent on successful attainment of restoration and mitigation performance criteria. This request shall be submitted to Central Valley Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Central Valley Water Board staff shall issue a Notice of Project Complete Letter to the Permittee which will end the post discharge monitoring period.

3. Conditional Notifications and Reports:

The following notifications and reports are required as appropriate.

a. Accidental Discharges of Hazardous Materials¹:

¹ "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Safety Code, Section 25501.)

Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Water Code, Section 13271):

- i. As soon as (A) Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures then:
 - first call – 911 (to notify local response agency)
 - then call – Office of Emergency Services (OES) State Warning Center at:(800) 852-7550 or (916) 845-8911
 - Lastly, follow the required OES, procedures as set forth in the [Office of Emergency Services' Accidental Discharge Notification Web page](http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf) (http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill_Booklet_Feb2014_FINAL_BW_Acc.pdf).
- ii. Following notification to OES, the Permittee shall notify Central Valley Water Board, as soon as practicable (ideally within 24 hours). Notification may be delivered via written notice, email, or other verifiable means.
- iii. Within five (5) working days of notification to the Central Valley Water Board, the Permittee must submit an Accidental Discharge of Hazardous Material Report.

b. Violation of Compliance with Water Quality Standards:

The Permittee shall notify the Central Valley Water Board of any event causing a violation of compliance with water quality standards. Notification may be delivered via written notice, email, or other verifiable means.

- i. This notification must be followed within three (3) working days by submission of a Violation of Compliance with Water Quality Standards Report.

c. In-Water Work and Diversions:

- i. The Permittee shall notify the Central Valley Water Board at least forty-eight (48) hours prior to initiating work in water or stream diversions. Notification may be delivered via written notice, email, or other verifiable means.
- ii. Within three (3) working days following completion of work in water or stream diversions, an In-Water Work/Diversions Water Quality Monitoring Report must be submitted to Central Valley Water Board staff.

d. Modifications to Project:

Project modifications may require an amendment of this Order. The Permittee shall give advance notice to Central Valley Water Board staff if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, state or federal regulatory authority by submitting a Modifications to Project Report. The Permittee shall inform Central Valley Water Board staff of any Project modifications that will interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the certification deviation section of this Order.

e. Transfer of Property Ownership:

This Order is not transferable in its entirety or in part to any person or organization except after notice to the Central Valley Water Board in accordance with the following terms:

- i. The Permittee must notify the Central Valley Water Board of any change in ownership or interest in ownership of the Project area by submitting a Transfer of Property Ownership Report. The Permittee and purchaser must sign and date the notification and provide such notification to the Central Valley Water Board at least 10 days prior to the transfer of ownership.
- ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.

f. Transfer of Long-Term BMP Maintenance:

If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee must submit to the Central Valley Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee must provide such notification to the Central Valley Water Board with a Transfer of Long-Term BMP Maintenance Report at least 10 days prior to the transfer of BMP maintenance responsibility.

C. Water Quality Monitoring**1. General:**

If surface water is present continuous visual surface water monitoring shall be conducted during active construction periods to detect accidental discharge of construction related pollutants (e.g., oil and grease, turbidity plume, or uncured concrete). Sampling is not required in a wetland where the entire wetland is being permanently filled, provided there is no outflow connecting the wetland to surface waters. The Permittee shall perform surface water sampling:

- a. when performing any in-water work;
- b. during the entire duration of temporary surface water diversions;
- c. in the event that the Project activities result in any materials reaching surface waters; or
- d. when any activities result in the creation of a visible plume in surface waters.

2. Accidental Discharges/Noncompliance:

Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Central Valley Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

3. In-Water Work or Diversions:

During planned in-water work, dewatering activities, or during the installation of removal of temporary water diversions, any discharge(s) to waters of the state shall conform to the following water quality standards:

- a. Waters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.
- b. Activities shall not cause turbidity increases in surface water to exceed:
 - i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTU;
 - ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
 - iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs;
 - v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior permission of the Central Valley Water Board Executive Officer.

Sampling during in-water work or during the entire duration of temporary water diversions shall be conducted in accordance with Table 2 sampling

parameters.² The sampling requirements in Table 2 shall be conducted upstream out of the influence of the Project, and approximately 300 feet downstream of the work area.

The sampling frequency and/or monitoring locations may be modified for certain projects with written approval from Central Valley Water Board staff. An In-Water Work and Diversion Water Quality Monitoring Report, as described in Attachment D, shall be submitted within two weeks on initiation of in-water construction, and every two weeks thereafter. In reporting the data, the Permittee shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the Project complies with Order requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria in XIV.C.3.

If no sampling is required, the Permittee shall submit a written statement stating, "No sampling was required" within two weeks on initiation of in-water construction, and every two weeks thereafter.

Table 2: Sample Type and Frequency Requirements

| Parameter | Unit of Measurement | Type of Sample | Minimum Frequency |
|--|---------------------|--------------------|---|
| Turbidity | NTU | Grab | Every 4 hours |
| Visible construction related pollutants ³ | Observations | Visual Inspections | Continuous throughout the construction period |

4. Post-Construction:

Visually inspect the Project site during the rainy season for one year following completion of active Project construction activities to ensure

² Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by Central Valley Water Board staff. Grab samples shall be taken between the surface and mid-depth and not be collected at the same time each day to get a complete representation of variations in the receiving water. A hand-held field meter may be used, provided the meter utilizes a U.S. EPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

³ Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

excessive erosion, stream instability, or other water quality pollution is not occurring in or downstream of the Project site. If water quality pollution is occurring, contact the Central Valley Water Board staff member overseeing the Project within three (3) working days. The Central Valley Water Board may require the submission of a Violation of Compliance with Water Quality Standards Report. Additional permits may be required to carry out any necessary site remediation.

D. Standard

1. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330, and California Code of Regulations, title 23, Chapter 28, article 6 commencing with sections 3867-3869, inclusive. Additionally, the Central Valley Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Permittee, if the Central Valley Water Board determines that: the Project fails to comply with any of the conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Water Code, section 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. section 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of state law.
2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.
4. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any state law authorizing remedies, penalties, processes, or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Order.

E. General Compliance

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
2. Permitted actions must not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters as adopted in the Basin Plans by any applicable Regional Water Board or any applicable State Water Board (collectively Water Boards) water quality control plan or policy. The source of any such discharge must be eliminated as soon as practicable.
3. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Water Boards deem appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with any applicable effluent limitations, water quality standards, and/or other appropriate requirement of state law.
4. The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order; and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.
5. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of state law.
6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program (MMRP) (include title and date of MMRP) which is incorporated herein by reference and any additional measures as outlined in Attachment C, CEQA Findings of Fact.
7. **Construction General Permit Requirement:** The Permittee shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002), as amended, for discharges to surface waters comprised of storm water associated with construction activity, including, but

not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.

F. Administrative

1. Signatory requirements for all document submittals required by this Order are presented in Attachment E of this Order.
2. This Order does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act, which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & Wildlife Code, sections 2050-2097) or the federal Endangered Species Act (16 U.S.C. sections 1531-1544). If a “take” will result from any act authorized under this Order held by the Permittee, the Permittee must comply with the California Endangered Species Act and federal Endangers Species Act prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
3. The Permittee shall grant Central Valley Water Board staff, or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
 - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept.
 - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order.
 - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order.
 - d. Sample or monitor for the purposes of assuring Order compliance.
4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.
5. A copy of this Order must be available at the Project site(s) during construction for review by site personnel and agencies. All personnel

performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.

- 6. Lake or Streambed Alteration Agreement:** The Permittee shall submit a signed copy of the California Department of Fish and Wildlife's Lake or Streambed Alteration Agreement to the Central Valley Water Board immediately upon execution and prior to any discharge to waters of the state.

G. Construction

1. Dewatering

- a. If water is present, the area must be dewatered prior to start of work.
- b. No dewatering will occur within the Project area.
- c. This Order does not allow permanent water diversion of flow from the receiving water. This Order is invalid if any water is permanently diverted as a part of the project.

2. Directional Drilling – Not Applicable

3. Dredging – Not Applicable

4. Fugitive Dust

Dust abatement activities can cause discharges of sediment to streams and uplands through application of water or other fluids. Dust abatement chemicals added to water can be hazardous to wildlife and, if allowed to enter streams, detrimental to water quality. Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state. Dust abatement products or additives that are known to be detrimental to water quality or wildlife shall not be used, unless specific management needs are documented, and product-specific application plans are approved by Central Valley Water Board staff.

5. Good Site Management “Housekeeping”

- a. The Permittee shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence. The Plan must be made available to the Central Valley Water Board staff upon request.
- b. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with

secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Permittee must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.

- c. All materials resulting from the Project shall be removed from the site and disposed of properly.

6. Hazardous Materials

- a. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete or the washing thereof, asphalt, paint, coating material, drilling fluids, or other substances potentially hazardous to fish and wildlife resulting from or disturbed by project-related activities is prohibited and shall be prevented from contaminating the soil and/or entering waters of the state. In the event of a prohibited discharge, the Permittee shall comply with notification requirements in sections XIV.B.3.a and XIV.B.3.b.
- b. No wet concrete will be placed into wetland, vernal pool, or stream channel habitat.

7. Invasive Species and Soil Borne Pathogens

Prior to arrival at the project site and prior to leaving the project site, construction equipment that may contain invasive plants and/or seeds shall be cleaned to reduce the spread of noxious weeds.

8. Post-Construction Storm Water Management

- a. The Permittee must minimize the short and long-term impacts on receiving water quality from the Project by implementing the following post-construction storm water management practices and as required by local agency permitting the Project, as appropriate:
 - i. Minimize the amount of impervious surface;
 - ii. Reduce peak runoff flows;
 - iii. Provide treatment BMPs to reduce pollutants in runoff;
 - iv. Ensure existing waters of the state (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;

- v. Preserve and where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
 - vi. Limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
 - vii. Use existing drainage master plans or studies to ensure incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;
 - viii. Identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss; and
 - ix. Control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.
- b.** The Permittee shall ensure that all development within the Project provides verification of maintenance provisions for post-construction structural and treatment control BMPs as required by the local agency permitting the Project. Verification shall include one or more of the following, as applicable:
- i. The developer's signed statement accepting responsibility for maintenance until the maintenance responsibility is legally transferred to another party; or
 - ii. Written conditions in the sales or lease agreement that require the recipient to assume responsibility for maintenance; or
 - iii. Written text in Project conditions, covenants and restrictions for residential properties assigning maintenance responsibilities to a homeowner's association, or other appropriate group, for maintenance of structural and treatment control BMPs; or
 - iv. Any other legally enforceable agreement that assigns responsibility for storm water BMPs maintenance.

9. Roads

- a.** The number of access routes, number and size of staging areas, and the total area of the activity must be limited to the minimum necessary to achieve the project goal. Routes and work area boundaries must be clearly demarcated.
- b.** Bridges, culverts, dip crossings, or other structures must be installed so that water and in-stream sediment flow is not impeded. Appropriate design criteria, practices and materials must be used in areas where access roads intersect waters of the state.

- c. Temporary materials placed in any water of the state must be removed as soon as construction is completed at that location, and all temporary roads must be removed or re-contoured and restored according to approved re-vegetation and restoration plans.
- d. Any structure, including but not limited to, culverts, pipes, piers, and coffer dams, placed within a stream where fish (as defined in California Fish and Game Code section 45) exist or may exist, must be designed, constructed, and maintained such that it does not constitute a barrier to upstream or downstream movement of aquatic life, or cause an avoidance reaction by fish due to impedance of their upstream or downstream movement. This includes, but is not limited to, maintaining the supply of water and maintaining flows at an appropriate depth, temperature, and velocity to facilitate upstream and downstream fish migration. If any structure results in a long-term reduction in fish movement, the discharger shall be responsible for restoration of conditions as necessary (as determined by the Water Board) to secure passage of fish across the structure.
- e. A method of containment must be used below any temporary bridge, trestle, boardwalk, and/or other stream crossing structure to prevent any debris or spills from falling into the waters of the state. Containment must be maintained and kept clean for the life of the temporary stream crossing structure.

10. Sediment Control

- a. Except for activities permitted by the United States Army Corps of Engineers under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
- b. Silt fencing, straw wattles, or other effective management practices must be used along the construction zone to minimize soil or sediment along the embankments from migrating into the waters of the state through the entire duration of the Project.
- c. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the Project area.

11. Special Status Species

The following Special Status Species have been documented to occur near or within the Project area: Western pond turtle, Swainson's hawk, tricolored blackbird, song sparrow, grasshopper sparrow, pallid bat, Townsend's big-eared bat, American badger, burrowing owl, loggerhead shrike, white-tailed

kite, northern harrier, valley elderberry longhorn beetle, vernal pool fairy shrimp, vernal pool tadpole shrimp, and western spadefoot.

12. Stabilization/Erosion Control

- a. All areas disturbed by Project activities shall be protected from washout and erosion.
- b. Hydroseeding shall be performed with California native seed mix.

13. Storm Water

- a. During the construction phase, the Permittee must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
 - i. An effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.

H. Site Specific – Not Applicable

I. Total Maximum Daily Load (TMDL) – Not Applicable

J. Mitigation for Temporary Impacts – Not Applicable

K. Compensatory Mitigation for Permanent Impacts:

Compensatory Mitigation is for permanent physical loss and permanent ecological degradation of a water of the state.

1. Purchase of Mitigation Credits by Permittee for Compensatory Mitigation

- a. A copy of the fully executed agreement for the purchase of mitigation credits shall be provided to the Central Valley Water Board prior to the initiation of in water work.
- b. The Permittee shall retain responsibility for providing the compensatory mitigation and long-term management until Central Valley Water Board staff has received documentation of the credit purchase and the transfer agreement between the Permittee and the seller of credits.

2. Total Required Compensatory Mitigation

- a. The Permittee is required to provide compensatory mitigation for the authorized impact to 2.29 acre of wetland habitat, 5.05 acre of vernal pool habitat, and 0.12 acre of roadside ditch by purchasing 11.19 in lieu fee credits from the Western Placer County In-Lieu Fee Program.

- b. Total required Project compensatory mitigation information for permanent physical loss of area is summarized in Table 3. [Establishment (Est.), Re-establishment (Re-est.), Rehabilitation (Reh.), Enhancement (Enh.), Preservation (Pres.), Unknown].

Table 3: Total Required Project Compensatory Mitigation Quantity for Permanent Physical Loss of Area

| Aquatic Resource Type | Mitigation Type | Units | Est. | Re-est. | Reh. | Enh. | Pres. | Unknown |
|-----------------------|---------------------|-------|------|---------|------|------|-------|---------|
| Unknown | In-Lieu Fee Credits | Acres | | | | | | 11.19 |

L. Certification Deviation

1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water quality. Some modifications of Project locations or predicted impacts may qualify as Certification Deviations as set forth in Attachment F. For purposes of this Certification, a “Certification Deviation” is a Project locational or impact modification that does not require an immediate amendment of the Order, because the Central Valley Water Board has determined that any potential water quality impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.
2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates changes that are not addressed by the Order conditions or the CEQA environmental document such that the Project impacts are not addressed in the Project’s environmental document or the conditions of this Order. In this case a supplemental environmental review and different Order will be required.

XV. Water Quality Certification

I hereby issue the Order for the Placer Commerce Center Project, WDID #5A31CR00598, certifying that as long as all of the conditions listed in this Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Water Code, section 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, the Regional Water Boards' Water Quality Control Plans and Policies.

Original Signed by Anne Walters for: _____

Patrick Pulupa, Executive Officer

Central Valley Regional Water Quality Control Board

- Attachment A:** Project Maps
- Attachment B:** Receiving Waters, Impacts, and Mitigation Information
- Attachment C:** CEQA Findings of Facts
- Attachment D:** Report and Notification Requirements
- Attachment E:** Signatory Requirements
- Attachment F:** Certification Deviation Procedures
- Attachment G:** Compliance with Code of Federal Regulations

(This page intentionally left blank)

Attachment A – Project Maps

Figure 1: Project Location

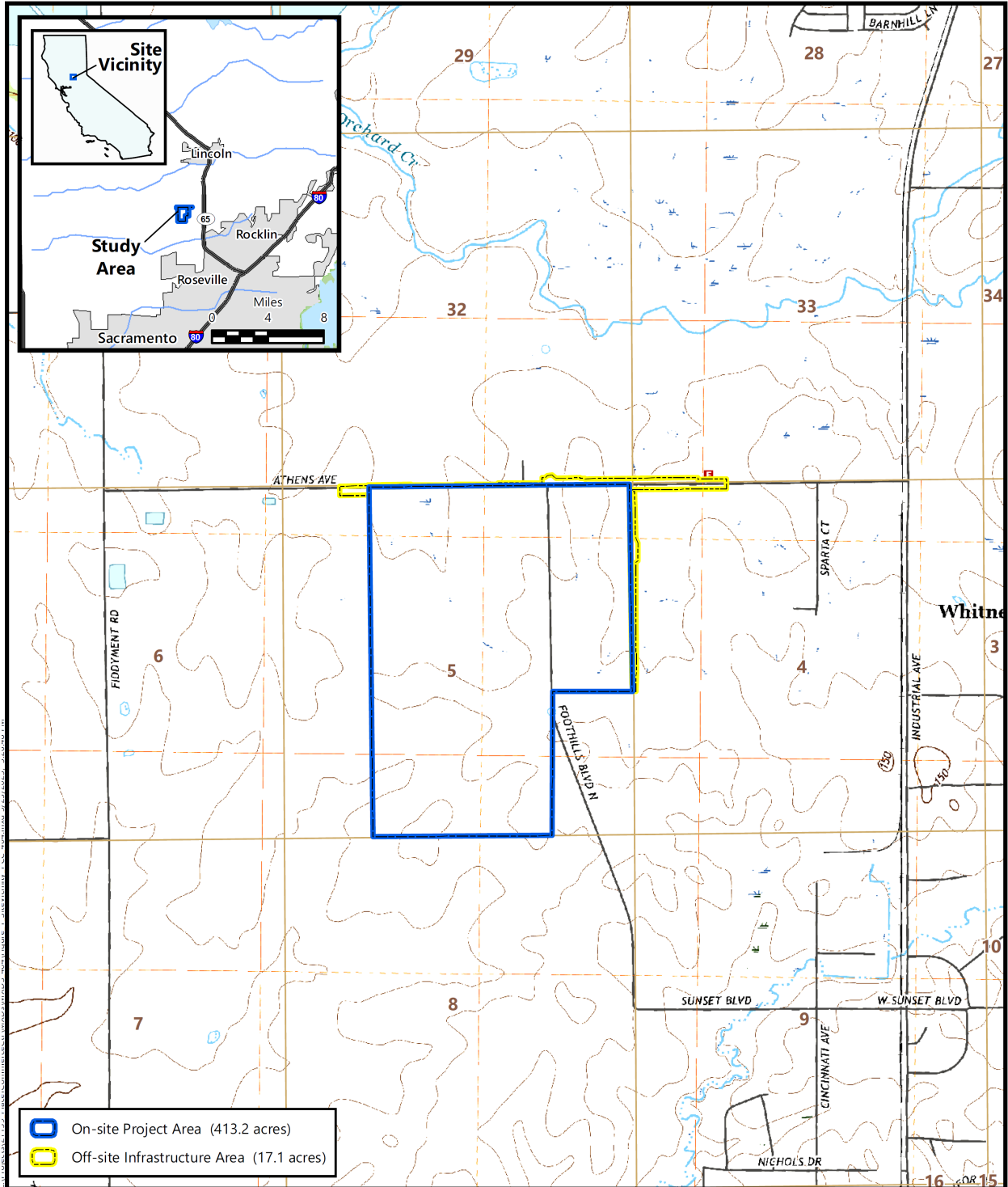
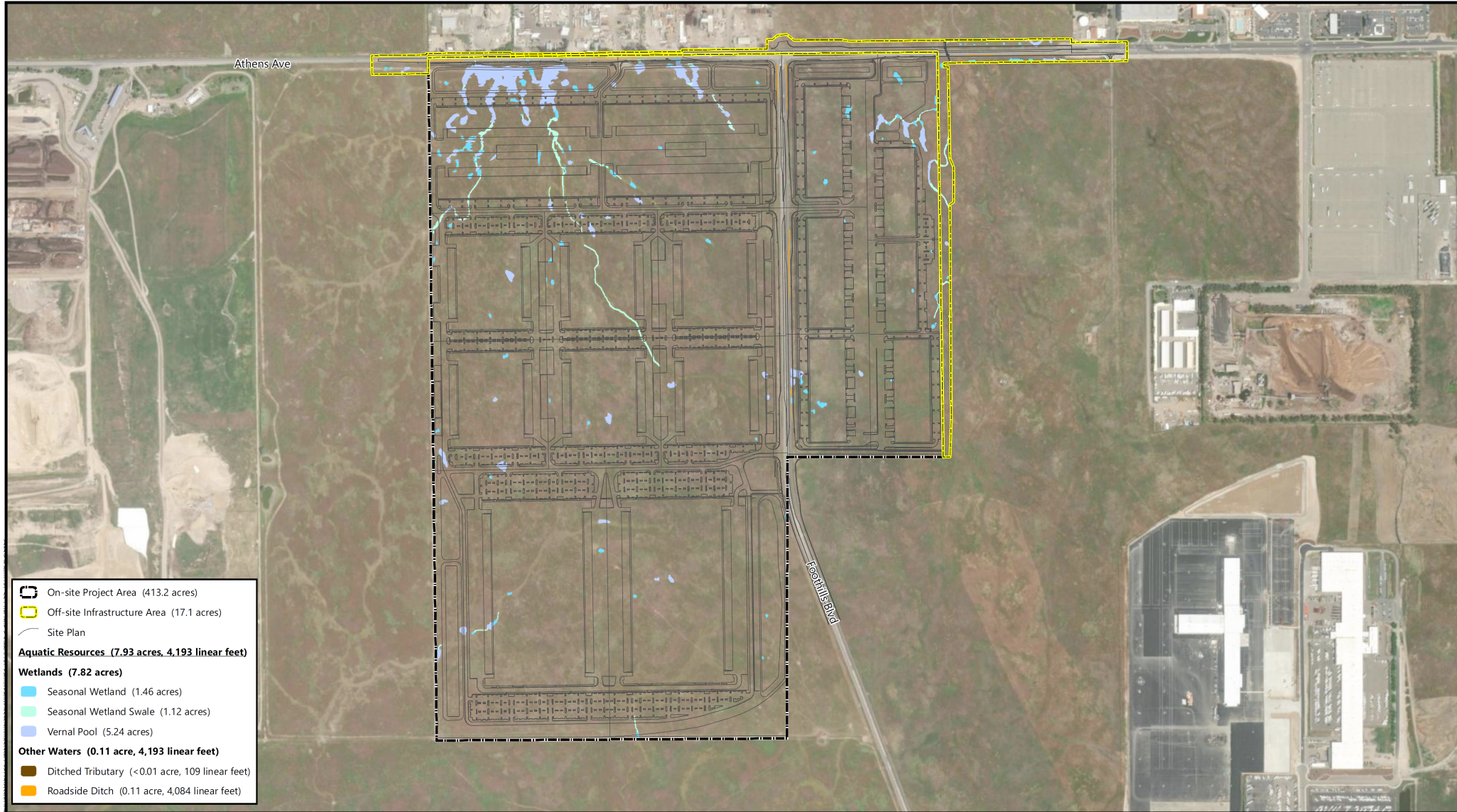


Figure 2: Project Impacts



(This page intentionally left blank)

Attachment B – Receiving Waters, Impacts and Mitigation Information

The following table shows the receiving waters associated with each impact site.

Table 1: Receiving Water(s) Information

| Non-Federal Waters | Impact Site ID | Waterbody Name | Impacted Aquatic Resources Type | Water Board Hydrologic Units | Receiving Waters | Receiving Waters Beneficial Uses | 303d Listing Pollutant | California Rapid Assessment Method (CRAM) ID |
|--------------------|------------------|------------------|---------------------------------|------------------------------|------------------|--|---|--|
| No | Seasonal Wetland | Seasonal Wetland | Seasonal Wetland | 519.22 | Feather River | MUN, AGR, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD | Aluminum, Chlorpyrifos, Group A Pesticides, Mercury, Dissolved Oxygen, PCBs, Toxins | |
| No | Vernal Pool | Vernal Pool | Vernal Pool | 519.22 | Feather River | MUN, AGR, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD | Aluminum, Chlorpyrifos, Group A Pesticides, Mercury, Dissolved Oxygen, PCBs, Toxins | |
| No | Roadside Ditch | Roadside Ditch | Roadside Ditch | 519.22 | Feather River | MUN, AGR, REC-1, REC-2, WARM, COLD, MIGR, SPWN, WILD | Aluminum, Chlorpyrifos, Group A Pesticides, Mercury, Dissolved Oxygen, PCBs, Toxins | |

Individual Direct Impact Locations

The following tables show individual impacts.

Table 2: Individual Permanent Fill/Excavation Impact Information

| Impact Site ID | Latitude | Longitude | Indirect Impact Requiring Mitigation? | Acres | Cubic Yards | Linear Feet |
|------------------|----------|-------------|---------------------------------------|-------|-------------|-------------|
| Seasonal Wetland | 38.83896 | -121.335407 | No | 2.29 | 3,698 | |
| Vernal Pool | 38.83896 | -121.335407 | No | 5.05 | 8,144 | |
| Roadside Ditch | 38.83896 | -121.335407 | No | 0.12 | 186 | 4,193 |

Compensatory Mitigation Information

The following table(s) show individual compensatory mitigation information and locations.

In-Lieu Fee Compensatory Mitigation Information

Table 3: In-Lieu Fee Program

| | |
|--|---|
| In-Lieu Fee Program Name: | Western Placer County In-Lieu Fee Program |
| Website: | Placer County, CA Official Website (www.placer.ca.gov) |
| In-Lieu Fee Program Contact Name: | Gregg McKenzie |
| Phone: | (530) 745-3074 |
| Email: | GAMckenz@placer.ca.gov |
| In-Lieu Fee Program Location - County: | Placer |

Table 4: Mitigation Type Information

| Aquatic Resource Credit Type | Acres | Linear Feet | Number of Credits Purchased |
|------------------------------|-------|-------------|-----------------------------|
| Unknown | 11.19 | | |

(This page is intentionally left blank)

Attachment C – CEQA Findings of Fact

A. Environmental Review

On December 10, 2019, Placer County, as lead agency, certified an Environmental Impact Report/Environmental Impact Statement (EIR/EIS) (State Clearinghouse (SCH) No. 2016112012) for the Sunset Area Plan (SAP) and Placer Ranch Specific Plan (PRSP) and filed a Notice of Determination (NOD) at the SCH on December 11, 2019. On December 13, 2022, Placer County adopted an Addendum to the Sunset Area Plan and Placer Ranch Specific Plan for the Placer Commerce Centre Project and filled a NOD at the SCH on December 14, 2022. The Central Valley Water Board is a responsible agency under CEQA (Public Resources Code, section 21069) and in making its determinations and findings, must presume that Placer County's certified environmental document comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3). The Central Valley Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by Placer County addresses the Project's water resource impacts. (California Code of Regulations, title 14, section 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by Placer County for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Public Resources Code, section 21081.6, subd. (a)(1); California Code of Regulations, title 14, section 15091, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR which is incorporated herein by reference. The Project FEIR is available at: [Sunset Area Plan - Placer Ranch Specific Plan | Placer County, CA](https://www.placer.ca.gov/2702/Sunset-Area-Plan---Placer-Ranch-Specific#tab40562e19-7975-40f0-931a-105b173f34f3_0) (https://www.placer.ca.gov/2702/Sunset-Area-Plan---Placer-Ranch-Specific#tab40562e19-7975-40f0-931a-105b173f34f3_0).

Requirements under the purview of the Central Valley Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

C. Findings

The FEIR describes the potential significant environmental effects to water resources. Having considered the whole of the record, including comments received during the public review process, the Central Valley Water Board makes the following findings:

- (1) Findings regarding impacts that will be mitigated to a less than significant level. (Public Resources Code, section 21081, subd. (a)(1); California Code of Regulations, title 14, section 15091, subd. (a)(1).)

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

a.i. Potential Significant Impact:

Implementation of the project would result in the removal or fill of jurisdictional waters of the United States, including wetlands subject to USACE jurisdiction under the federal Clean Water Act and waters of the state.

a.ii. Facts in Support of Finding:

Mitigation Measure 4.4-1a: Compensate for loss of aquatic resources (Net SAP and PRSP) Consistent with proposed SAP Policy NR-1.2, Stream System Protection, the County shall require the protection and enhancement of the Stream System and other areas capable of meeting the PCCP Reserve Acquisition and avoidance criteria (e.g. Stream System, avoided areas 200 acres or greater, habitat and wetlands adjacent or connected to the Stream System or existing/future Reserves, Valley Oak Woodlands one acre or greater). Consistent with proposed SAP Program NR-4, PCCP and CARP Program Consistency, the County shall require project applicants to delineate all aquatic resources, implement all feasible avoidance and minimization measures described in the PCCP and CARP, calculate the extent of impacts, and provide compensatory mitigation according to the procedures described in the adopted PCCP and CARP, through payment of applicable mitigation fees to the In-Lieu Fee Program or purchase of mitigation credits at an agency-approved mitigation bank. If adopted, the PCCP may allow for consideration of land dedication in-lieu of PCCP fees, subject to approval by the future Placer Conservation Authority (PCA) and concurrence by the state and federal agencies. The fees collected through the In-Lieu Fee Program shall be used to fund land acquisition, mitigation projects that protect, enhance, and restore aquatic resources, and long-term management and monitoring within the PCCP Reserve Acquisition Areas. If the PCCP, including the Western Placer CARP and associated USACE programmatic permits are not adopted, or are not available as a permitting and mitigation strategy for future projects, compensation for loss of aquatic resources shall be implemented as follows:

- As a condition of project approval, the County shall require project proponents to conduct a delineation of waters of the United States according to methods established in the USACE wetlands delineation manual (Environmental Laboratory 1987) and Arid West Supplement (Environmental Laboratory 2008) and to delineate any aquatic resources that may not meet the definition of waters of the United States, but would qualify as waters of the state. The delineation shall

map and quantify the acreage of all aquatic resources on the project site and associated off-site improvement areas and shall be submitted to USACE for jurisdictional determination. This requirement applies to project sites for which a current delineation and subsequent verification and concurrence by USACE have not been completed.

- A permit from the USACE will be required for any activity resulting in fill of wetlands and other waters of the United States. Project proponents shall be required to obtain this permit before project initiation. A wetland mitigation plan that satisfies USACE requirements will be needed as part of the permit application. Project proponents that obtain a Section 404 permit will also be required to obtain water quality certification from the Central Valley RWQCB pursuant to Section 401 of the CWA.
- The project proponent for each future project requiring fill of aquatic resources shall replace or restore on a “no-net-loss” basis the function of all wetlands and other waters that would be removed as a result of implementing the respective project. Wetland habitat will be restored or replaced at an acreage and location and by methods agreeable to USACE and the Central Valley RWQCB, depending on agency jurisdiction, and as determined during the Section 401 and Section 404 permitting processes.
- The project proponent shall submit a compensatory mitigation and monitoring plan (MMP) to USACE and the Central Valley RWQCB, for review and approval before USACE making a permit decision for the proposed action. The MMP shall be consistent with the Final 2015 Regional Compensatory Mitigation and Monitoring Guidelines for South Pacific Division USACE, or most current guidelines, and shall identify the amount and type of proposed compensatory mitigation to ensure “no net loss” of aquatic resource functions and services that would be removed, lost, and/or substantially degraded as a result of implementing the project. The MMP will describe compensation ratios for acres filled, mitigation sites and work plan, maintenance plan and long-term management plan, a monitoring protocol, annual performance standards and final success criteria for created or restored habitats, corrective measures to be applied if performance standards are not met, legal protection for the preservation and mitigation areas (e.g., conservation easement, declaration of restrictions), and funding mechanism information (e.g., endowment). ψ Mitigation methods may consist of establishment by a qualified biologist of aquatic resources in upland habitats where they did not exist previously, reestablishment (restoration) of natural historic functions to a former aquatic resource, enhancement of an existing aquatic resource to heighten, intensify, or improve aquatic resource functions, or a combination thereof. The compensatory mitigation may

be accomplished through purchase of credits from a USACE-approved mitigation bank, payment into a USACE-approved in-lieu fee fund, or through permittee-responsible on-site or off-site establishment, reestablishment, or enhancement, depending on availability of mitigation credits. To the extent practicable, mitigation shall be carried out within the affected watershed.

- Permittee-responsible mitigation habitat shall be monitored by a qualified biologist for a minimum of 5 years from completion of mitigation, or human intervention (including recontouring and grading), or until the success criteria identified in the approved MMP have been met, whichever is longer.

Mitigation Measure 4.4-1b. Coordinate with City of Roseville regarding mitigation for loss of aquatic resources resulting from off-site improvements outside the County's jurisdictional boundaries (Other Supporting Infrastructure). The County shall coordinate with the City of Roseville regarding mitigation for loss of aquatic resources resulting from construction of the Pleasant Grove Retention Facility and other off-site improvements within the City's jurisdiction. As a part of its CEQA process for each improvement project, the City of Roseville, as lead agency, would identify and implement appropriate mitigation for significant impacts to aquatic resources. The City would also obtain permits pursuant to Sections 404 and 401 of the Clean Water Act for fill of waters of the United States, including wetlands. As part of the permitting process, the City would identify and implement mitigation resulting in no net loss of wetland functions and values. Placer County would play a coordinating role but would have no control over the timing and implementation of mitigation for off-site improvements that occur within the City of Roseville.

b.i. Potential Significant Impact:

Implementing the project would result in direct removal of wetland habitat known to support dwarf downingia, a California species of special concern, and potential habitat for other special-status plant species. Other special-status plant species could be present in suitable habitat in the project area and could be lost through habitat removal or modification.

b.ii. Facts in Support of Finding:

Mitigation Measure 4.4-2: Coordinate with City of Roseville regarding mitigation for impacts on special-status plant species resulting from off-site improvements outside the County's jurisdictional boundaries (Other Supporting Infrastructure) The County shall coordinate with the City of Roseville regarding mitigation for loss of special-status plants resulting from construction of the Pleasant Grove Retention Facility and off-site transportation and utility improvements within the City's jurisdiction. As a part of its CEQA process for each improvement project, the City of Roseville, as

lead agency, would identify and implement appropriate mitigation for significant impacts.

c.i. Potential Significant Impact:

Implementing the project would result in loss and degradation of habitat for special-status wildlife species that rely on vernal pool type wetlands for at least a portion of their life cycle. These three species are federally listed vernal pool fairy shrimp and vernal pool tadpole shrimp, and species of special concern, western spadefoot. Incidental take of these special-status wildlife species may also result.

c.ii. Facts in Support of Finding:

Mitigation Measure 4.4-3a: Minimize take of western spadefoot (Net SAP and PRSP) As a condition of project approval and before ground disturbing activities, the County shall require future project proponents to retain a qualified biologist to determine if the project site contains suitable habitat for western spadefoot and if so, conduct surveys for western spadefoot in areas of potential habitat that would be eliminated by the project. The surveys shall be conducted at the appropriate time of year to detect western spadefoot, generally the breeding season, according to methods approved by CDFW. If western spadefoot is found in habitat that will be eliminated or made unsuitable for western spadefoot, then a plan to collect and relocate adult and larval western spadefoot and egg masses to suitable habitat that will be preserved in perpetuity as required by Mitigation Measure 4.4-3b below.

Mitigation Measure 4.4-3b: Compensate for take of federally listed vernal pool invertebrates and western spadefoot habitat loss (Net SAP and PRSP) Loss of vernal pool habitat and other seasonal wetland habitats that support or potentially support Federally listed vernal pool invertebrates shall be replaced or restored in such a manner that there will be no net loss of habitat (acreage and function) for vernal pool invertebrates and western spadefoot following project implementation. As described under Mitigation Measure 4.4-1a, project proponents shall complete and implement a compensatory habitat MMP describing how loss of vernal pool and other wetland habitats shall be offset, including details for creating habitat; accounting for the temporal loss of habitat, performance standards to ensure success, and remedial actions to be implemented if performance standards are not met. All measures shall meet the approval of Placer County, USACE, and USFWS. No project construction shall proceed in areas supporting potential habitat for Federally listed vernal pool invertebrates, or within adequate buffer areas (250 feet or lesser distance deemed sufficiently protective by a qualified biologist with approval from USFWS), until a biological opinion (BO) and incidental take authorization has been issued by USFWS and the project proponent has abided by conditions in the BO, including all conservation and minimization measures. Conservation and minimization measures shall include preparation of supporting documentation describing methods to protect existing vernal

pools during and after project construction, a detailed monitoring plan, and reporting requirements. Western spadefoot also requires the protection of vernal pool habitat for survival; therefore, implementation of Mitigation Measures 4.4-3a and 4.4-3b would also reduce impacts to western spadefoot. Mitigation shall include preservation of in-kind wetland habitats within the Western Placer County core area at ratios satisfactory to ensure no net loss of habitat acreage, function, and value within the core area. To count toward preservation credits, vernal pool habitats within the open space areas shall be placed under a permanent conservation easement. Habitat to be protected includes both occupied and unoccupied suitable habitat that serves as corridors for dispersal, opportunities for metapopulation dynamics, reintroduction/introduction sites, and protection of undiscovered populations. Mitigation may include a combination of on-site and off-site preservation, as well as on-site or off-site wetland restoration and creation, purchase of credits at a mitigation bank approved by USFWS and USACE, or in-lieu fee mitigation. The project proponents shall preserve acreage of vernal pool habitat for each wetted acre of any indirectly affected vernal pool habitat at a ratio approved by USFWS at the conclusion of the Section 7 consultation. This mitigation shall occur before the approval of any grading or improvement plans for any project or phase that would allow work within 250 feet of such habitat, and before any ground-disturbing activity within 250 feet of the habitat. The project proponents will not be required to complete this mitigation measure for direct or indirect impacts that have already been mitigated to the satisfaction of USFWS through another BO or MMP, such as a BO obtained for the Placer Parkway or for Pleasant Grove Retention Facility.

Mitigation Measure 4.4-3c: Coordinate with City of Roseville regarding mitigation for vernal pool fairy shrimp, vernal pool tadpole shrimp and western spadefoot impacts resulting from off-site improvements outside the County's jurisdictional boundaries (Other Supporting Infrastructure) The County shall coordinate with the City of Roseville regarding mitigation for impacts on vernal pool branchiopods and western spadefoot from construction of the Pleasant Grove Retention Facility and other off-site improvements within the City's jurisdiction. As a part of its CEQA process for each improvement project, the City of Roseville, as lead agency, would identify and implement appropriate mitigation for significant impacts to vernal pool branchiopods and western spadefoot. Likewise, as a condition of project approval, the City of Roseville or applicant for off-site improvements would be required to obtain permits from USACE for fill of wetlands, which would trigger consultation with USFWS for species listed under the Endangered Species Act, including vernal pool fairy shrimp and vernal pool tadpole shrimp. Through the consultation process, measures to avoid, minimize, or compensate for impacts to listed species would be required. Placer County would play a coordinating role but would have no control over the timing and implementation of mitigation for off-site improvements within the City of Roseville, nor would it have authority to

enforce consultation with USFWS or permit compliance for off-site improvements that occur outside its own jurisdiction.

d.i. Potential Significant Impact:

Implementing the project could result in loss or degradation of riparian habitat considered sensitive in the Placer County General Plan and protected under Section 1602 of the Fish and Game Code.

d.ii. Facts in Support of Finding:

Mitigation Measure 4.4-6a: Avoid, minimize, or compensate for loss of riparian habitat (Net SAP Area and PRSP Area). The County shall require future project proponents, including for off-site improvements, to retain a qualified botanist to identify, map, and quantify riparian habitat and other sensitive natural communities on the project site before final project design is completed.

If impacts on riparian habitat cannot be avoided as part of future project construction, the project proponent shall compensate for loss of riparian habitat through participation in the PCCP if it has been adopted and is available for mitigation for project impacts. Per the PCCP, mitigation shall be through off-site restoration at an area ratio of at least 1.5:1 and shall be funded through fees paid in addition to land conversion fees. On-site restoration by the project proponent may serve in lieu of some or all of the Special Habitat fees if it meets all the applicable requirements described in the PCCP conservation measures and implementation plan. ψ If the PCCP is not adopted, the project proponent shall consult with the County and CDFW to determine appropriate mitigation for removal of riparian habitat resulting from project implementation. Mitigation measures may include restoration of affected habitat on site and in kind, restoration of another section of stream within the project area, habitat restoration off site, or payment of a mitigation fee to a CDFW approved mitigation bank. The compensation habitat shall be similar in composition and structure to the habitat/natural community to be removed and shall be at ratios adequate to offset the loss of habitat functions in the affected project area so that there is no-net-loss of riparian habitat functions, consistent with Placer County General Plan policy and CDFW regulations. If required, the project proponents shall obtain a Section 1602 streambed alteration agreement from CDFW and comply with all conditions of the agreement.

Mitigation Measure 4.4-6b: Coordinate with City of Roseville regarding mitigation for impacts on riparian habitat resulting from off-site improvements outside the County's jurisdictional boundaries (Other Supporting Infrastructure) The County shall coordinate with the City of Roseville regarding mitigation for loss of riparian habitat resulting from construction of the Pleasant Grove Retention Facility within the City's jurisdiction. As a part of its CEQA process for the Pleasant Grove Retention Facility project, the City of Roseville, as lead agency, would identify and implement appropriate

mitigation for significant impacts to riparian habitat. Placer County would play a coordinating role but would have no control over the timing and implementation of mitigation for off-site improvements that occur outside its jurisdiction.

- (2) Findings regarding significant water quality or supply impacts being authorized due to specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers that cannot feasibly be mitigated to a less than significant level. (Public Resources Code, section 21081, subd. (a)(3); California Code of Regulations, title 14, section 15091, subd. (a)(3).)

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

a.i. Significant Effects:

Changes or alterations have been required in, or incorporated into, the project that lessen, though not to a less-than-significant level, the significant environmental effects that would result in the removal or fill of jurisdictional waters of the United States, including wetlands, as identified in the Final EIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effects therefore remain significant and unavoidable.

a.ii. Facts in Support of Finding:

Successful implementation of the SAP policies and Mitigation Measures 4.4-1 a and 4.4-1b is expected to reduce significant impacts on wetlands and other waters of the United States, and waters of the state, but not necessarily to a less-than-significant level. After a mitigation plan has been accepted by USACE and is implemented as required (including on-site preservation and purchase of credits at a mitigation bank and/or in-lieu fee mitigation), the direct impacts resulting from project implementation could be mitigated by providing “no net loss” of overall wetland acreage resulting from the project, as required in USACE permit conditions. However, USACE requires mitigation resulting in no net loss of wetland functions. Removal of approximately 46.35 acres of waters of the United States from the PRSP area, and additional comparable acreage from the remaining SAP area including stream channels, vernal pools, and other similar wetland habitats is a substantial loss, especially when considered in the context of the regional rate and acreage of habitat losses.

Creating compensatory wetlands cannot be guaranteed to fully replace the functions of wetlands lost and temporal losses would occur unless all impacts could be mitigated through fully functioning, established, in-kind wetlands from an approved mitigation bank, in lieu fee program, permittee responsible

mitigation or other required comprehensive state and federal regulatory and wildlife agency mitigation. It is unknown if the PCCP will be adopted in time to provide a permitting and mitigation mechanism for future projects implemented under the SAP or PRSP. If the PCCP is approved by the state and federal agencies and is adopted and implemented in time to support development under the PRSP and Net SAP, it would likely reduce significant impacts to a greater degree than project-by-project mitigation by developing a large, managed and monitored reserve area that will provide wetland and species habitat restoration, open space and agricultural conservation in perpetuity, rather than smaller, more fragmented and isolated reserves surrounded by urban development.

State and federal regulatory and wildlife agencies permitting processes, including development of and requirements for avoidance, minimization and mitigation through restoration, creation, and preservation of wetlands and species habitat and replacement functions and values would need to fully satisfy and be consistent with the compensatory mitigation necessary to meet the requirements specified in future Biological Opinions and Section 404 permits. Although there may not be enough credits in the future market, there are currently several mitigation banks with mitigation credits and potential future credit approved in their bank development plans. While existing credits may not be enough to fully cover the loss of wetland functions resulting from project implementation, and it is unknown if sufficient land would be available from willing sellers to fully mitigate the loss, existing and future banks may come on-line as the project is built-out over time and credits may become available in the future.

While it is likely that impacts would be mitigated by the City of Roseville in its role as lead agency for projects within its jurisdiction, Placer County would have no control over the timing and implementation of mitigation for off-site improvements that occur within the City of Roseville. Therefore, this impact would remain potentially significant and unavoidable.

b.i. Significant Effects:

Changes or alterations have been required in, or incorporated into, the project that lessen, though not to a less-than-significant level, the significant environmental effects that would result in direct removal of wetland habitat known to support dwarf downingia, a California species of special concern, and potential habitat for other special-status plant species, as identified in the Final EIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effects therefore remain significant and unavoidable.

b.ii. Facts in Support of Finding:

Implementing the project would result in loss and degradation of known occupied and potential habitats for special-status plant species. Implementation of SAP policies would reduce impacts on known and

potentially-occurring special-status plant species within the project area and off-site improvement areas within the County's jurisdiction because project proponents would be required to identify and avoid special-status plant populations to the extent feasible, and provide compensation for the unavoidable loss of special-status plants through establishment of new populations, conservation easements, or other appropriate measures. However, the SAP policies would not be enforceable on off-site improvement projects within the City of Roseville, including the Pleasant Grove Retention Facility. While it is likely that impacts to special-status plants resulting from infrastructure projects in the City of Roseville would be mitigated by the City in its role as lead agency for projects within its jurisdiction, Placer County would have no control over the timing and implementation of such mitigation. Therefore, impacts on special-status plants within the City of Roseville's jurisdiction would remain potentially significant and unavoidable.

c.i. Significant Effects:

Changes or alterations have been required in, or incorporated into, the project that lessen, though not to a less-than-significant level, the significant environmental effects that would result in loss and degradation of habitat for special-status wildlife species that rely on vernal pool type wetlands for at least a portion of their life cycle, as identified in the Final EIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effects therefore remain significant and unavoidable.

c.ii. Facts in Support of Finding:

Implementation of Mitigation Measures 4.4-1a, 4.4-1b, 4.4-3a, 4.4-3b, and 4.4-3c would reduce significant direct and indirect effects on Federally listed vernal pool branchiopods and western spadefoot, but not necessarily to a less-than-significant level because of the extent of occupied and potential habitat loss and degradation. Removal of approximately 2,865 acres of low density vernal pool complexes from the SAP area, and approximately 2,173 acres of low density vernal pool complexes from the PRSP area is a substantial loss, especially when considered in the context of the rate and acreage of habitat losses in the region, and contributes significantly to the loss of habitat for these species in a core area identified by USFWS as being important to the recovery of these species. Because the PCCP has not been finalized and adopted, a determination cannot be made on whether the proposed plan would reduce these direct and indirect effects to a less-than-significant level. If the PCCP is adopted and implemented in time to support development under the PRSP and SAP, it would likely reduce significant impacts on vernal pool branchiopods and western spadefoot to a greater degree than project-by-project mitigation by developing a large, managed and monitored reserve area that will provide vernal pool and associated habitat restoration, and open space and agricultural conservation in perpetuity, rather than smaller, more fragmented and isolated reserves surrounded by urban

development. In addition, its avoidance, minimization and mitigation requirements would also support the reduction of potential indirect significant effects. However, that mitigation would not necessarily occur within the western Placer County core area because there is a limited amount of habitat present within the core area and a large proportion of it has already been developed or is planned for development. It is unknown if the PCCP will be adopted in time to provide a mechanism for take authorization and mitigation for future projects implemented under the SAP or PRSP. Furthermore, the County would have no control over the timing and implementation of mitigation for impacts on vernal pool fairy shrimp, vernal pool tadpole shrimp, and western spadefoot resulting from off-site improvements within the City of Roseville's jurisdiction. There are currently no mitigation banks that service western Placer County with credits available to fully cover the loss of habitat resulting from project implementation. However, such credits may become available in the future. State and federal regulatory and wildlife agencies permitting processes, including development of and requirements for avoidance, minimization and mitigation through restoration, creation, and preservation of wetlands and species habitat and replacement functions and values would need to fully satisfy and be consistent with the compensatory mitigation necessary to meet the requirements specified in a Biological Opinion and Section 404 permits for the project.

Absent the adoption of the PCCP's conservation strategy, which if approved has been designed to serve as an equivalent alternative to implementation of a recovery plan, the project could result in an overall loss of habitat from the western Placer County core area could result in reducing the potential for recovery of vernal pool fairy shrimp and vernal pool tadpole shrimp and contributing to the ongoing decline of these species in the region if other comprehensive state and federal regulatory and wildlife agency mitigation was not otherwise required. This loss and degradation of habitat could also contribute to a trend toward state or federal listing for western spadefoot even after mitigation. Therefore, this impact would remain significant and unavoidable.

c.i. Significant Effects:

Changes or alterations have been required in, or incorporated into, the project that lessen, though not to a less-than-significant level, the significant environmental effects that could result in loss or degradation of riparian habitat, as identified in the Final EIR. Specific economic, legal, social, and technological, or other considerations make infeasible any further mitigation, and the effects therefore remain significant and unavoidable.

c.ii. Facts in Support of Finding:

Successful implementation of Mitigation Measure 4.4-6a would reduce potentially significant impacts related to riparian habitat within the County's jurisdiction to a less-than-significant level because it would require project

proponents to avoid these habitats if technically feasible and would require compensation for loss of riparian habitat resulting in no net loss of riparian habitat functions. While it is likely that impacts would be mitigated by the City of Roseville in its role as lead agency for projects within its jurisdiction, Placer County would have no control over the timing and implementation of mitigation for off-site improvements that occur within the City of Roseville (see Mitigation Measure 4.4-6b). Therefore, impacts on riparian habitat resulting from off-site improvements within the City of Roseville's jurisdiction would remain potentially significant and unavoidable.

d.i. Significant Effects:

Cumulative Impact 4.4-11: Contribution to loss and degradation of state or federally protected waters Given the potential loss of habitat functions and values provided by the approximately 4,730 acres of vernal pool complex habitat containing approximately 115 acres of vernal pool type wetlands in the project area, when combined with anticipated growth in the region, the project could make a considerable contribution to a significant cumulative impact.

d.ii. Facts in Support of Finding:

Implementation of the SAP policies and Mitigation Measures 4.4-1 a and 4.4-1b is expected to reduce significant impacts on wetlands and other waters of the United States, and waters of the state, but not necessarily to a less-than-significant level for the same reasons described for Impact 4.4-1. These reasons include the following: the mitigation measures would not result in "no net loss" of wetland functions resulting from the project, as required by USACE; creating compensatory wetlands would not fully replace the functions of wetlands lost; it is unknown if the PCCP will be adopted in time to provide a permitting and mitigation mechanism for future projects implemented under the SAP or PRSP; existing mitigation bank credits may not be enough to fully cover the loss of wetland functions resulting from project implementation; and Placer County would have no control over the timing and implementation of mitigation for off-site improvements that occur within the City of Roseville. Because no additional mitigation is available to reduce this impact to a less-than-significant level, this impact would be significant and unavoidable.

e.i. Significant Effects:

Loss of vernal pool habitat has resulted in substantial declines in vernal pool fairy shrimp, vernal pool tadpole shrimp, and western spadefoot statewide and in the region. This represents an existing significant cumulative impact. Implementation of the SAP and PRSP, in combination with other existing and planned development projects in the area, would result in the loss of 12,207 acres, or 34 percent, of the 36,356 acres of vernal pool habitat existing in the Western Placer County Core Area (see Exhibit 4.4-6 in the Draft EIR). Therefore, the project would make a considerable contribution to a significant cumulative impact.

e.ii. Facts in Support of Finding:

Implementation of Mitigation Measures 4.4-1a, 4.4-1b, 4.4-3a, and 4.4-3b would reduce significant direct and indirect effects on Federally listed vernal pool branchiopods and western spadefoot, but not necessarily to a less-than-significant level because of the extent of occupied and potential habitat loss and degradation. Currently, mitigation bank and in lieu fee program credits may not be available in western Placer County to fully cover the loss of habitat resulting from project implementation and it is unknown if sufficient, unspoken for land would be available from willing sellers to fully mitigate the loss. Creation and preservation of wetlands within smaller and more fragmented areas surrounded by urban development cannot fully compensate for the whole suite of ecological services provided by larger expanses of interconnected wetland complexes surrounded by open space. If no feasible landscape level mitigation is available to reduce all potential indirect impacts to a less-than-significant level, this impact would remain significant and unavoidable.

D. Statement of Overriding Considerations

The FEIR identifies certain significant impacts to the environment that cannot be avoided or substantially lessened with the application of feasible mitigation measures or feasible alternatives. Because there are significant and unavoidable impacts the Central Valley Water Board provides this Statement of Overriding Considerations in compliance with CEQA. (Public Resources Code, section 21081, subd (b); California Code of Regulations, title 14, section 15093.)

The significant and unavoidable impacts and the benefits related to implementing the Placer Commerce Center Project are disclosed in Placer County's FEIR, CEQA Findings of Fact, and Statement of Overriding Considerations. The unavoidable impacts to water resources are discussed in subsection C above.

The Central Valley Water Board has considered the economic, legal, social, technological, and other benefits of the Project against its significant unavoidable impacts to water resources and finds that the specific economic, legal, social, and technological benefits of implementing the Project outweigh the significant and unavoidable impacts to water resources.

E. Determination

The Central Valley Water Board has reviewed and considered the environmental document and supplemental information provided by the Placer County and has reached its own conclusion to approve this Project. The Central Valley Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (California Code of Regulations, title 14, section 15096.)

(This page intentionally left blank)

Attachment D – Reports and Notification Requirements

I. Copies of this form

In order to identify your project, it is necessary to include a copy of the Project specific Cover Sheet below with your report; please retain for your records. If you need to obtain a copy of the Cover Sheet, you may download a copy of this Order as follows:

- A. [Central Valley Regional Water Quality Control Board's Adopted Orders Web page](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/401_wqcerts/)
(https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/401_wqcerts/)
- B. Find your Order based on the County, Permittee, WDID No., and/or Project Name.

II. Report Submittal Instructions

- A. Check the box on the Report and Notification Cover Sheet next to the report or notification you are submitting. **(See your Order for specific reports required for your Project)**
 - **Part A (Monthly and Annual Reports):** These reports will be submitted monthly and annually until a Notice of Project Complete Letter is issued.
 - **Part B (Project Status Notifications):** Used to notify the Central Valley Water Board of the status of the Project schedule that may affect Project billing.
 - **Part C (Conditional Notifications and Reports):** Required on a case by case basis for accidental discharges of hazardous materials, violation of compliance with water quality standards, notification of in-water work, or other reports.
- B. Sign the Report and Notification Cover Sheet and attach all information requested for the Report Type.
- C. Electronic Report Submittal Instructions:
 - Submit signed Report and Notification Cover Sheet and required information via email to: centralvalleysacramento@waterboards.ca.gov and cc: Nicholas.Savino@waterboards.ca.gov.
 - Include in the subject line of the email:
ATTN: Nicholas Savino; Project Name; and WDID No. 5A31CR00598.

III. Definition of Reporting Terms

A. Active Discharge Period:

The active discharge period begins with the effective date of this Order and ends on the date that the Permittee receives a Notice of Completion of Discharges Letter or, if no post-construction monitoring is required, a Notice of Project Complete Letter. The Active Discharge Period includes all elements of the Project including site construction and restoration, and any Permittee responsible compensatory mitigation construction.

B. Request for Notice of Completion of Discharges Letter:

This request by the Permittee to the Central Valley Water Board staff pertains to projects that have post construction monitoring requirements, e.g. if site restoration was required to be monitored for 5 years following construction. Central Valley Water Board staff will review the request and send a Completion of Discharges Letter to the Permittee upon approval. This letter will initiate the post-discharge monitoring period.

C. Request for Notice of Project Complete Letter:

This request by the Permittee to the Central Valley Water Board staff pertains to projects that either have completed post-construction monitoring and achieved performance standards or have no post-construction monitoring requirements, and no further Project activities are planned. Central Valley Water Board staff will review the request and send a Project Complete Letter to the Permittee upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.

D. Post-Discharge Monitoring Period:

The post-discharge monitoring period begins on the date of the Notice of Completion of Discharges Letter and ends on the date of the Notice of Project Complete Letter issued by the Central Valley Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring or compensatory mitigation monitoring.

E. Effective Date:

6 October 2023

IV. Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

A. Map Format Information:

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles must depict the boundaries of all project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- Aquatic resource maps marked on paper **USGS 7.5-minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps must show the boundaries of all project areas and extent/type of aquatic resources impacted. If this format is used include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

B. Photo-Documentation:

Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.

V. Report and Notification Cover Sheet

Project: Placer Commerce Center Project
Permittee: Buzz Oates Construction, Inc.
WDID: 5A31CR00598
Reg. Meas. ID: 453166
Place ID: 888980
Order Effective Date: 6 October 2023
Order Expiration Date: 5 October 2028

VI. Report Type Submitted

A. Part A – Project Reporting

Report Type 1 Monthly Report
Report Type 2 Annual Report

B. Part B – Project Status Notifications

Report Type 3 Commencement of Construction
Report Type 4 Request for Notice of Completion of Discharges Letter
Report Type 5 Request for Notice of Project Complete Letter

C. Part C – Conditional Notifications and Reports

Report Type 6 Accidental Discharge of Hazardous Material Report
Report Type 7 Violation of Compliance with Water Quality Standards Report
Report Type 8 In-Water Work/Diversions Water Quality Monitoring Report
Report Type 9 Modifications to Project Report
Report Type 10 Transfer of Property Ownership Report
Report Type 11 Transfer of Long-Term BMP Maintenance Report

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

| | |
|-------------------------------|----------------------------------|
| Print Name¹ | Affiliation and Job Title |
|-------------------------------|----------------------------------|

| | |
|------------------|-------------|
| Signature | Date |
|------------------|-------------|

¹STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)

I hereby authorize _____ to act in my behalf as my representative in the submittal of this report, and to furnish upon request, supplemental information in support of this submittal.

| | |
|------------------------------|-------------|
| Permittee's Signature | Date |
|------------------------------|-------------|

| |
|--|
| *This Report and Notification Cover Sheet must be signed by the Permittee or a duly authorized representative and included with all written submittals. |
|--|

A. Part A – Project Reporting

1. Report Type 1 - Monthly Report

- a. Report Purpose** - Notifies Central Valley Water Board staff of the Project status and environmental compliance activities on a monthly basis.
- b. When to Submit** - On the 1st day of each month after the submittal of the Commencement of Construction Notification until a Notice of Project Complete Letter is issued to the Permittee.
- c. Report Contents** -
 - i. Construction Summary
Describe Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water Best Management Practices (BMPs). Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control. If construction has not started, provide estimated start date.
 - ii. Event Summary
Describe distinct Project activities and occurrences, including environmental monitoring, surveys, and inspections.
 - iii. Photo Summary
Provide photos of Project activities. For each photo, include a unique site identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.
 - iv. Compliance Summary
 - List name and organization of environmental surveyors, monitors, and inspectors involved with monitoring environmental compliance for the reporting period.
 - List associated monitoring reports for the reporting period.
 - Summarize observed incidences of non-compliance, compliance issues, minor problems, or occurrences.
 - Describe each observed incidence in detail. List monitor name and organization, date, location, type of incident, corrective action taken (if any), status, and resolution.

2. Report Type 2 - Annual Report

- a. **Report Purpose** - Notify the Central Valley Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
- b. **When to Submit** - Annual reports shall be submitted each year on the 1st day of November beginning one year after the effective date of the Order. Annual reports shall continue until a Notice of Project Complete Letter is issued to the Permittee.
- c. **Report Contents** - The contents of the annual report shall include the topics indicated below for each project period. Report contents are outlined in Annual Report Topics below.

During the Active Discharge Period

- **Topic 1: Construction Summary**
- **Topic 2: Mitigation for Temporary Impacts Status**
- **Topic 3: Compensatory Mitigation for Permanent Impacts Status**

During the Post-Discharge Monitoring Period

- **Topic 2: Mitigation for Temporary Impacts Status**
- **Topic 3: Compensatory Mitigation for Permanent Impacts Status**

- i. Annual Report Topic 1 - Construction Summary

When to Submit - With the annual report during the Active Discharge Period.

Report Contents - Project progress and schedule including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water best management practices (BMPs). If construction has not started, provide estimated start date and reasons for delay.

- 1) Map showing general Project progress.
- 2) If applicable:
 - a) Summary of Conditional Notification and Report Types 6 and 7 (Part C below).
 - b) Summary of Certification Deviations. See Certification Deviation Attachment for further information.

- ii. Annual Report Topic 2 - Mitigation for Temporary Impacts Status

When to Submit - With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

Report Contents -

- 1) Planned date of initiation and map showing locations of mitigation for temporary impacts to waters of the state and all upland areas of temporary disturbance which could result in a discharge to waters of the state.
- 2) If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.
- iii. Annual Report Topic 3 - Compensatory Mitigation for Permanent Impacts Status

When to Submit - With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.

Report Contents - *If not applicable report N/A.

1) Part A. Permittee Responsible

- a) Planned date of initiation of compensatory mitigation site installation.
- b) If installation is in progress, a map of what has been completed to date.
- c) If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.

2) Part B. Mitigation Bank or In-Lieu Fee

- a) Status or proof of purchase of credit types and quantities.
- b) Include the name of bank/ILF Program and contact information.
- c) If ILF, location of project and type if known.

B. Part B – Project Status Notifications

1. Report Type 3 - Commencement of Construction

- a. **Report Purpose** - Notify Central Valley Water Board staff prior to the start of construction.
- b. **When to Submit** - Must be received at least seven (7) days prior to start of initial ground disturbance activities.
- c. **Report Contents** -
 - i. Date of commencement of construction.
 - ii. Anticipated date when discharges to waters of the state will occur.
 - iii. Project schedule milestones including a schedule for onsite compensatory mitigation, if applicable.

- iv. Construction Storm Water General Permit WDID No.
- v. Proof of purchase of compensatory mitigation for permanent impacts from the mitigation bank or in-lieu fee program.

2. Report Type 4 - Request for Notice of Completion of Discharges Letter

- a. Report Purpose** - Notify Central Valley Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.
- b. When to Submit** - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project construction activities.
- c. Report Contents** -
 - i. Status of storm water Notice of Termination(s), if applicable.
 - ii. Status of post-construction storm water BMP installation.
 - iii. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.
 - iv. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the state, if applicable.
 - v. An updated monitoring schedule for mitigation for temporary impacts to waters of the state and permittee responsible compensatory mitigation during the post-discharge monitoring period, if applicable.

3. Report Type 5 - Request for Notice of Project Complete Letter

- a. Report Purpose** - Notify Central Valley Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
- b. When to Submit** - Must be received by Central Valley Water Board staff within thirty (30) days following completion of all Project activities.
- c. Report Contents** -
 - i. Part A: Mitigation for Temporary Impacts
 - 1) A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance which could result in a discharge to waters of the state.
 - 2) A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the state. Pre- and post-photo documentation of all restoration sites.

- ii. Part B: Permittee Responsible Compensatory Mitigation
 - 1) A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.
 - 2) Status on the implementation of the long-term maintenance and management plan and funding of endowment.
 - 3) Pre- and post-photo documentation of all compensatory mitigation sites.
 - 4) Final maps of all compensatory mitigation areas (including buffers).
- iii. Part C: Post-Construction Storm Water BMPs
 - 1) Date of storm water Notice of Termination(s), if applicable.
 - 2) Report status and functionality of all post-construction BMPs.
 - 3) Dates and report of visual post-construction inspection during the rainy season as indicated in XIV.C.4.

C. Part C – Conditional Notifications and Reports

1. Report Type 6 - Accidental Discharge of Hazardous Material Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff that an accidental discharge of hazardous material has occurred.
- b. **When to Submit** - Within five (5) working days of notification to the Central Valley Water Board of an accidental discharge. Continue reporting as required by Central Valley Water Board staff.
- c. **Report Contents** -
 - i. The report shall include the OES Incident/Assessment Form, a full description and map of the accidental discharge incident (i.e. location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the OES Written Follow-Up Report may be substituted.
 - ii. If applicable, any required sampling data, a full description of the sampling methods including frequency/dates and times of sampling, equipment, locations of sampling sites.
 - iii. Locations and construction specifications of any barriers, including silt curtains or diverting structures, and any associated trenching or anchoring.

2. Report Type 7 - Violation of Compliance with Water Quality Standards Report

- a. **Report Purpose** - Notifies Central Valley Water Board staff that a violation of compliance with water quality standards has occurred.

b. When to Submit - At least 10 working days prior to the transfer of ownership.

c. Report Contents -

- i. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts:
 - 1) the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and
 - 2) responsibility for compliance with any long-term BMP maintenance plan requirements in this Order. Best Management Practices (BMPs) is a term used to describe a type of water pollution or environmental control.
- ii. A statement that the Permittee has informed the purchaser to submit a written request to the Central Valley Water Board to be named as the permittee in a revised order.

6. Report Type 11 - Transfer of Long-Term BMP Maintenance Report

a. Report Purpose - Notifies Central Valley Water Board staff of transfer of long-term BMP maintenance responsibility.

b. When to Submit - At least 10 working days prior to the transfer of BMP maintenance responsibility.

c. Report Contents - A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

(This page intentionally left blank)

Attachment E – Signatory Requirements

All documents submitted in compliance with this Order shall meet the following signatory requirements:

- A.** All applications, reports, or information submitted to the Central Valley Water Quality Control Board (Central Valley Water Board) must be signed and certified as follows:
 - 1.** For a corporation, by a responsible corporate officer of at least the level of vice-president.
 - 2.** For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - 3.** For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.

- B.** A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
 - 1.** The authorization is made in writing by a person described in items 1.a through 1.c above.
 - 2.** The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - 3.** The written authorization is submitted to the Central Valley Water Board Staff Contact prior to submitting any documents listed in item 1 above.

- C.** Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

(This page intentionally left blank)

Attachment F – Certification Deviation Procedures

I. Introduction

These procedures are put into place to preclude the need for Order amendments for minor changes in the Project routing or location. Minor changes or modifications in project activities are often required by the Permittee following start of construction. These deviations may potentially increase or decrease impacts to waters of the state. In such cases, a Certification Deviation, as defined in Section XIV.L of the Order, may be requested by the Permittee as set forth below:

II. Process Steps

A. Who may apply:

The Permittee or the Permittee's duly authorized representative or agent (hereinafter, "Permittee") for this Order.

B. How to apply:

By letter or email to the 401 staff designated as the contact for this Order.

C. Certification Deviation Request:

The Permittee will request verification from the Central Valley Water Board staff that the project change qualifies as a Certification Deviation, as opposed to requiring an amendment to the Order. The request should:

1. Describe the Project change or modification:
 - a. Proposed activity description and purpose;
 - b. Why the proposed activity is considered minor in terms of impacts to waters of the state;
 - c. How the Project activity is currently addressed in the Order; and,
 - d. Why a Certification Deviation is necessary for the Project.
2. Describe location (latitude/longitude coordinates), the date(s) it will occur, as well as associated impact information (i.e., temporary or permanent, federal or non-federal jurisdiction, water body name/type, estimated impact area, etc.) and minimization measures to be implemented.
3. Provide all updated environmental survey information for the new impact area.
4. Provide a map that includes the activity boundaries with photos of the site.
5. Provide verification of any mitigation needed according to the Order conditions.
6. Provide verification from the CEQA Lead Agency that the proposed changes or modifications do not trigger the need for a subsequent environmental

document, an addendum to the environmental document, or a supplemental EIR. (Cal. Code Regs., tit. 14, §§ 15162-15164.)

D. Post-Discharge Certification Deviation Reporting:

1. Within 30 calendar days of completing the approved Certification Deviation activity, the Permittee will provide a post-discharge activity report that includes the following information:
 - a. Activity description and purpose;
 - b. Activity location, start date, and completion date;
 - c. Erosion control and pollution prevention measures applied;
 - d. The net change in impact area by water body type(s) in acres, linear feet and cubic yards;
 - e. Mitigation plan, if applicable; and,
 - f. Map of activity location and boundaries; post-construction photos.

E. Annual Summary Deviation Report:

1. Until a Notice of Completion of Discharges Letter or Notice of Project Complete Letter is issued, include in the Annual Project Report (see Construction Notification and Reporting attachment) a compilation of all Certification Deviation activities through the reporting period with the following information:
 - a. Site name(s);
 - b. Date(s) of Certification Deviation approval;
 - c. Location(s) of authorized activities;
 - d. Impact area(s) by water body type prior to activity in acres, linear feet and cubic yards, as originally authorized in the Order;
 - e. Actual impact area(s) by water body type in, acres, linear feet and cubic yards, due to Certification Deviation activity(ies);
 - f. The net change in impact area by water body type(s) in acres, linear feet and cubic yards; and
 - g. Mitigation to be provided (approved mitigation ratio and amount).

(This page is intentionally left blank)

**Attachment G - Compliance with Code of Federal Regulations,
Title 40, Section 121.7, Subdivision (d)**

The purpose of this Attachment is to comply with Code of Federal Regulations, title 40, section 121.7, subdivision (d), which requires all certification conditions to provide an explanation of why the condition is necessary to assure that any discharge authorized under the certification will comply with water quality requirements and a citation to federal, state, or tribal law that authorizes the condition. This Attachment uses the same organizational structure as Section XIV of the Order, and the statements below correspond with the conditions set forth in Section XIV. The other Order Sections are not “conditions” as used in Code of Federal Regulations, title 40, section 121.7.

I. General Justification for Section XIV Conditions

Pursuant to Clean Water Act section 401 and California Code of Regulations, title 23, section 3859, subdivision (a), the Central Valley Water Board, when issuing water quality certifications, may set forth conditions to ensure compliance with applicable water quality standards and other appropriate requirements of state law. Under California Water Code section 13160, the State Water Resources Control Board is authorized to issue water quality certifications under the Clean Water Act and has delegated this authority to the executive officers of the regional water quality controls boards for projects within the executive officer’s region of jurisdiction. (California Code of Regulations, title 23, section 3838.)

The conditions within the Order are generally required pursuant to the Central Valley Water Board’s Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fifth Edition, February 2019 (Basin Plan), which was adopted and is periodically revised pursuant to Water Code section 13240. The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies. For instance, the Basin Plan includes water quality objectives for chemical constituents, oil and grease, pH, sediment, suspended material, toxicity and turbidity, which ensure protection of beneficial uses.

The State Water Board’s Antidegradation Policy, “Statement of Policy with Respect to Maintaining High Quality Waters in California,” Resolution No. 68-16, requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. The Basin Plan incorporates this Policy. The state Antidegradation Policy incorporates the federal Antidegradation Policy (40 C.F.R. section 131.12

(a)(1)), which requires "[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected."

The State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Dredge or Fill Procedures), adopted pursuant to Water Code sections 13140 and 13170, authorize approval of dredge or fill projects only if the demonstrations set forth in Section IV.B.1 of the Dredge or Fill Procedures have been satisfied.

California Code of Regulations, title 23, sections 3830 et seq. set forth state regulations pertaining to water quality certifications. In particular, section 3856 sets forth information that must be included in water quality certification requests, and section 3860 sets forth standard conditions that shall be included in all water quality certification actions.

Finally, Water Code sections 13267 and 13383 authorize the regional and state boards to establish monitoring and reporting requirements for persons discharging or proposing to discharge waste.

II. Specific Justification for Section XIV Conditions

A. Authorization

Authorization under the Order is granted based on the application submitted. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

B. Reporting and Notification Requirements

1. Project Reporting

2. Project Status Notifications

The reporting and notification conditions under Sections B.1 and B.2 are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383.

Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

3. Conditional Notifications and Reports

a. Accidental Discharges of Hazardous Materials

Conditions under Section B.3.a related to notification and reporting requirements in the event of an accidental discharge of hazardous materials are required pursuant to section 13271 of the Water Code, which requires immediate notification of the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code. "Hazardous materials" is defined under Health and Safety Code section 25501. These reports related to accidental discharges ensure that corrective actions, if any, that are necessary to minimize the impact or clean up such discharges can be taken as soon as possible.

b. Violation of Compliance with Water Quality Standards

c. In-Water work and Diversions

Conditions under Section B.3.b and B.3.c related to monitoring and reporting on water quality standard compliance and in-water work and diversions are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable water quality objectives under the Basin Plan. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

d. Modifications to Project

Authorization under this Order is granted based on the application and supporting information submitted. Conditions under Section B.3.d are necessary to ensure that if there are modifications to the project, that the Order requirements remain applicable. The Permittee is required to detail the scope of project impacts in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

e. Transfer of Property Ownership

f. Transfer of Long-Term BMP Maintenance

Authorization under this Order is granted based on the application information submitted, including identification of the legally responsible party. Conditions under Sections B.3.e and B.3.f are necessary to confirm whether the new owner wishes to assume legal responsibility for compliance with this Order. If not, the original discharger remains responsible for compliance with this Order. Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856.

C. Water Quality Monitoring

Conditions under Section C related to water quality monitoring are required to confirm that best management practices required under this Order are sufficient to protect beneficial uses and to comply with water quality objectives to protect those uses under the Basin Plan. Applicable water quality objectives and beneficial uses are identified in the Order. These monitoring requirements are consistent with the Central Valley Water Board's authority to investigate the

quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

D. Standard

1. This Order is subject to modification or revocation

This is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(a). This condition places the permittee on notice that the certification action may be modified or revoked following administrative or judicial review.

2. This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility

This is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(b). This condition clarifies the scope of the certification’s application.

3. This Order is conditioned upon total payment of any fee

This is a standard condition that “shall be included as conditions of all water quality certification actions” pursuant to California Code of Regulations, title 23, section 3860(c). This fee requirement condition is also required pursuant to California Code of Regulations, section 3833(b).

E. General Compliance

1. Failure to comply with any condition of this Order

The condition under Section E.1 places the Permittee on notice of any violations of Order requirements. Pursuant to Water Code section 13385, subdivision (a)(2), a person who violates any water quality certification issued pursuant to Water Code section 13160 shall be liable civilly.

2. Permitted actions must not cause a violation of any applicable water quality standards

Conditions under Section E.2 related to compliance with water quality objectives and designated beneficial uses are required pursuant to the Central Valley Water Board’s Basin Plan. The Basin Plan’s water quality

standards consist of existing and potential beneficial uses of waters of the state, water quality objectives to protect those uses, and the state and federal antidegradation policies. The Antidegradation Policy requires that the quality of existing high-quality water be maintained unless any change will be consistent with the maximum benefit to the people of the state, will not unreasonably affect present or anticipated future beneficial uses of such water, and will not result in water quality less than that prescribed in water quality control plans or policies. The Antidegradation Policy further requires best practicable treatment or control of the discharge necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with maximum benefit to the people of the state will be maintained. Applicable beneficial uses and water quality objectives to protect those uses include the Chemical Constituents (Basin Plan, Section 3.1.3), Oil and Grease (Basin Plan, Section 3.1.10), pH (Basin Plan, Section 3.1.11), Sediment (Basin Plan, 3.1.15), Suspended Material (3.1.17), Toxicity (Basin Plan, 3.1.20), and Turbidity (Basin Plan, Section 3.1.21) water quality objectives.

3. In response to a suspected violation of any condition of this Order, the Central Valley Water Board may require

Conditions under Section E.3 related to monitoring and reporting are required to provide the Central Valley Water Board necessary project information and oversight to ensure project discharges are complying with applicable Basin Plan requirements. These monitoring and reporting requirements are consistent with the Central Valley Water Board's authority to investigate the quality of any waters of the state and require necessary monitoring and reporting pursuant to Water Code sections 13267 and 13383. Water Code section 13267 authorizes the regional boards to require any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste to provide technical or monitoring program reports required by the regional board. Technical supports submitted pursuant to Water Code section 13267 are required to be submitted under penalty of perjury. Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

4. The Permittee must, at all times, fully comply with engineering plans, specifications, and technical reports

Authorization under the Order is granted based on the application and supporting information submitted. The Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any

material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Finally, compliance with conditions of the Order ensures that the Project will comply with all water quality standards and other appropriate requirements as detailed herein. (California Code of Regulations, title 23, section 3859, subdivision (a).)

5. This Order and all of its conditions herein continue to have full force and effect

This condition ensures continued compliance with applicable water quality standards and other appropriate requirements of state law. Notwithstanding any determinations by the U.S. Army Corps or other federal agency pursuant to 40 C.F.R. section 121.9, the Permittee must comply with the entirety of this certification because, pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, this Order also serves as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act.

6. The Permittee shall adhere to all requirements in the mitigation monitoring and reporting program

This condition ensures mitigation measures required to lessen the significance of impacts to water quality identified pursuant to California Environmental Quality Act review are implemented and enforceable. Pursuant to California Code of Regulations, title 14, section 15097, subdivision (a), a public agency shall adopt a program for monitoring and reporting on mitigation measures imposed to mitigate or avoid significant environmental effects to ensure implementation.

7. Construction General Permit Requirement

Permittees are required to obtain coverage under National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002), as amended, for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres. This is required pursuant to Clean Water Act sections 301 and 402 which prohibit certain discharges of storm water containing pollutants except in compliance with an NPDES permit. (33 U.S.C. section 1311, and 1342(p); 40 C.F.R. parts 122, 123, and 124.)

F. Administrative

1. Signatory requirements for all document submittals

The condition for signatory requirements is required pursuant to Water Code section 13267, which requires any person discharging waste that could affect the quality of waters to provide to the Central Valley Water Board, under penalty of perjury, any technical or monitoring program reports as required by the Central Valley Water Board. The signatory requirements are consistent with 40 C.F.R. section 122.22.

2. This Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species

Pursuant to the California Endangered Species Act (Fish & Wildlife Code, sections 2050 et seq.) and federal Endangered Species Act (16 U.S.C. sections 1531 et seq.), the Order does not authorize any act which results in the taking of a threatened, endangered, or candidate species. In the event a Permittee requires authorization from the state or federal authorities, California Code of Regulations, title 23, section 3856(e), requires that copies be provided to the Central Valley Water Board of “any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included.”

3. The Permittee shall grant Central Valley Water Board staff

The condition related to site access requirements is authorized pursuant to the Central Valley Water Board’s authority to investigate the quality of any waters of the state within its region under Water Code section 13267 and 13383. Water Code section 13267, subdivision (c) provides that “the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with.” Water Code section 13383 authorizes the regional boards to establish monitoring, inspection, entry, reporting, and other recordkeeping requirements, as authorized by Water Code section 13160, for any person who discharges, or proposes to discharge, to navigable waters.

4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors

This Condition ensures any agent of the Permittee is aware of Order requirements. Such conditions within the Order are necessary to ensure that all activities will comply with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the Permittees’ agents are unaware of applicable requirements. These

conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

5. A copy of this Order must be available at the Project site(s) during construction . . .

This Condition ensures any agent of the Permittee is aware of Order requirements. Such conditions within the Order are necessary to ensure that all activities will comply with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and cannot be adhered to if the Permittees' agents are unaware of applicable requirements. These conditions are necessary to ensure compliance with applicable water quality objectives and protection of beneficial uses found in the Basin Plan, adopted pursuant to Water Code section 13240, and detailed in the Order.

6. Lake or Streambed Alteration Agreement

This condition is required pursuant to California Code of Regulations, title 23, section 3856, subdivision (e), which requires that copies be provided to the Central Valley Water Board of "any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft document is available, a list of all remaining agency regulatory approvals being sought shall be included."

G. Construction

1. **Dewatering** – Not Applicable
2. **Directional Drilling** – Not Applicable
3. **Dredging** – Not Applicable
4. **Fugitive Dust**

This condition is required to assure that the discharge from the Project will comply with water quality objectives established for surface waters, including for chemical constituents and toxicity. (Basin Plan, Sections 3.1.3 & 3.1.20.) Chemicals used in dust abatement activities can result in a discharge of chemical additives and treated waters to surface waters of the state.

Therefore, dust abatement activities shall be conducted so that sediment or dust abatement chemicals are not discharged into waters of the state and do not adversely affect beneficial uses. (Basin Plan, Section 2.1; Dredge or Fill Procedures, Section IV.B.1.)

5. Good Site Management “Housekeeping”

Conditions related to site management require best practices to prevent, minimize, and/or clean up potential construction spills, including from construction equipment. For instance, fuels and lubricants associated with the use of mechanized equipment have the potential to result in toxic discharges to waters of the state in violation of water quality standards, including the toxicity and floating material water quality objectives. (Basin Plan, Sections 3.1.7 & 3.1.20.) This condition is also required pursuant to Water Code section 13264, which prohibits any discharge that is not specifically authorized in this Order. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters; or violate water quality standards.

6. Hazardous Materials

Conditions related to toxic and hazardous materials are necessary to assure that discharges comply with applicable water quality objectives under the Basin Plan, adopted under section 13240 of the Water Code, including the narrative toxicity and chemical constituents water quality objectives. (Basin Plan, Sections 3.1.3, 3.1.20.) Further, conditions related to concrete/cement are required pursuant to the Basin Plan’s pH water quality objective. (Basin Plan, Section 3.1.11.)

7. Invasive Species and Soil Borne Pathogens

Conditions related to invasive species and soil borne pathogens are required to ensure that discharges will not violate any water quality objectives under the Basin Plan, adopted under Water Code section 13240 of the Water Code. Invasive species and soil borne pathogens adversely affect beneficial uses designated in the Basin Plan, such as rare, threatened, or endangered species; wildlife habitat; and preservation of biological habitats of special significance. (See Basin Plan, Section 2.1.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

8. Post-Construction Storm Water Management

Conditions related to post-construction stormwater management are required to comply with the Basin Plan and to assure that the discharge complies with applicable water quality objectives. Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the state; therefore, it is necessary to take corrective action to eliminate such discharges in order to avoid or minimize such degradation. Implementation of control measures and best management practices described in the conditions will assure compliance with water quality objectives including for floating

material, sediment, turbidity, temperature, suspended material, and settleable material. (Basin Plan, Sections 3.1.7, 3.1.15, 3.1.16, 3.1.17, 3.1.19, 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

9. Roads

These conditions are required to assure that discharges will comply with water quality standards within the Basin Plan. Specifically, activities associated with road maintenance have the potential to exceed water quality objectives for oil and grease, pH, sediment, settleable materials, temperature, and turbidity. (Basin Plan, Sections 3.1.10, 3.1.11, 3.1.15, 3.1.16, 3.1.19, 3.1.21.) Further, these conditions are required to assure that they do not result in adverse impacts related to hydromodification or create barriers to fish passage and spawning activities. Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

10. Sediment Control

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess sediment, which impairs surface waters, adversely affect beneficial uses, and results in exceedance of water quality objectives in the Basin Plan, including for sediment and turbidity. (Basin Plan, Sections 3.1.15 & 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

11. Special Status Species

See F.2 above.

12. Stabilization/Erosion Control

Conditions related to erosion and sediment control design requirements are required to sustain fluvial geomorphic equilibrium. Improperly designed and installed BMPs result in excess sediment, which impairs surface waters, adversely affect beneficial uses, and results in exceedance of water quality objectives in the Basin Plan, including for sediment. (Basin Plan, Section 3.1.15.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not contribute to a net loss of

the overall abundance, diversity, and condition of aquatic resources; cause or contribute to a degradation of waters; or violate water quality standards.

13. Storm Water

Post-rain erosion and sedimentation problems can contribute to significant degradation of the waters of the state; therefore, it is necessary to take corrective action to eliminate such discharges in order to avoid or minimize such degradation. Implementation of control measures and best management practices described in the condition will assure compliance with water quality objectives including chemical constituents, floating material, sediment, turbidity, temperature, suspended material, and settleable material within the Basin Plan. (Basin Plan, Sections 3.1.1, 3.1.7, 3.1.15, 3.1.16, 3.1.17, 3.1.19, 3.1.21.) Among other requirements, Section IV.B.1 of the Dredge or Fill Procedures requires that Project impacts will not cause or contribute to a degradation of waters or violate water quality standards.

H. Site Specific – Not Applicable

I. Total Maximum Daily Load (TMDL) – Not Applicable

J. Mitigation for Temporary Impacts – Not Applicable

K. Compensatory Mitigation for Permanent Impacts

Mitigation Bank Development/In-Lieu Fee Project Development

The conditions under Section K regarding compensatory mitigation for permanent impacts ensure permanent physical loss and permanent ecological degradation of waters of the state are adequately mitigated. These conditions are necessary to ensure compliance with state and federal anti-degradation policies and are consistent with Section IV.B.1.a of the Dredge or Fill Procedures, which requires that the Water Boards will approve a project only after it has been determined that a sequence of actions has been taken to first avoid, then to minimize, and lastly compensate for adverse impacts that cannot be practicably avoided or minimized. (See also California Code of Regulations, section 3856, subdivision (h) [requiring submittal of proposed mitigation and description of steps taken to avoid, minimize, or compensate].) These compensatory mitigation conditions are also consistent with Executive Order W-59-93 commonly referred to as California's "No Net Loss" Policy for wetlands. The objective of the No Net Loss Policy is to ensure no overall net loss of and a long term net gain in the quantity, quality, and permanence of wetland acreage and values in California. Further, compensatory mitigation requirements must comply with subpart J of the Supplemental State Guidelines. Conditions related to financial assurances are also required to ensure that compensatory mitigation will be provided. (Dredge or Fill Procedures, section IV.B.5.f.)

L. Certification Deviation

- 1. Minor modifications of Project locations or predicted impacts**
- 2. A Project modification shall not be granted a Certification Deviation if it warrants or necessitates**

Authorization under the Order is granted based on the application and supporting information submitted. Among other requirements, the Permittee is required to detail the project description in a complete application pursuant to California Code of Regulations, title 23, section 3856, subdivision (h). Pursuant to Water Code section 13260, subdivision (c), each person discharging waste, or proposing to discharge waste shall file a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge. Pursuant to Water Code section 13264, subdivision (a), the Permittee is prohibited from initiating the discharge of new wastes, or making material changes to the character, volume, and timing of waste discharges authorized herein without filing a report required by Water Code section 13260 or its equivalent for certification actions under California Code of Regulations, title 23, section 3856. Project deviations may require additional or different Order conditions as authorized by law to ensure compliance with applicable water quality standards and other appropriate requirements (33 U.S.C. section 1341; California Code of Regulations, title 23, section 3859, subdivision (a)) and may result in impacts to water quality that require additional environmental review (California Code of Regulations, title 14, sections 15062-15063).