STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Wastewater Petition WW0085

City of Brentwood

ORDER APPROVING CHANGE IN AMOUNT OF DISCHARGE AND PLACE OF USE

SOURCE: Marsh Creek tributary to the San Joaquin River

COUNTY: Contra Costa

WHEREAS:

1. The City of Brentwood (City) filed Wastewater Change Petition WW0085 with the State Water Resources Control Board (State Water Board) on April 29, 2015, pursuant to Water Code section 1211. The petition seeks to: 1) reduce the quantity of treated wastewater discharged from the City's Wastewater Treatment Plant (WWTP) to Marsh Creek, which is a perennial stream located within the jurisdictional area of the Sacramento-San Joaquin Delta, and 2) change the place of use of the City's treated wastewater.

2. Water Code section 1211 requires the owner of any wastewater treatment plant to obtain approval from the State Water Board prior to making any change in the point of discharge, place of use, or purpose of use of treated wastewater, where changes in the discharge or use of treated wastewater result in decreasing the flow in any portion of a watercourse. The City has not obtained previous approval of any such changes under Water Code section 1211. For the purposes of this Order, the State Water Board considers the following information as the existing point of discharge from the City's WWTP, and the proposed place and purpose of use of the treated wastewater:

    a. Treated wastewater effluent from the existing outfall to Marsh Creek from the City's WWTP is located as follows: NAD83 Zone 3, North 2,175,205 feet and East 6,220,336 feet being within the SW¼ of NE¼ of Section 6, T1N, R3E, MDB&M.

    b. The place of use is within Contra Costa County and consists of 810 acres within the City of Brentwood City limits and the Roddy Ranch Golf Course within T1N, R2E and R3E, MDB&M as shown on map submitted on October 1, 2015, and on file with the State Water Board.

    c. The purposes of use are industrial use and irrigation.

3. The City's use of recycled water is permitted under Master Reclamation Permit, Order No. R5 2004-0132, which was issued by the Central Valley Regional Water Quality Control Board (Regional Water Board) on September 10, 2004, and allows for unrestricted recycled water reuse activities where humans are unlikely to come into contact with, or ingest, the water (e.g. irrigation of food and fodder crops, landscape irrigation, fire hydrants, street sweeping, dust

control, carwash facilities, decorative fountains, evaporative cooling or power plant cooling facilities, etc). The recycled water the City delivers to users must be at a minimum disinfected tertiary treated wastewater, as described in California Code of Regulations, Title 22, Division 4, Chapter 3, section 60301, et seq.

4. The City's WWTP surface water discharge to Marsh Creek is currently regulated pursuant to Regional Water Board WDRs Order R5-2013-0106-01 (as amended by Orders R5-2014-0122 and R5-2015-0043), National Pollutant Discharge Elimination System Permit No. CA0085201 for a design average dry weather flow capacity of 5.0 million gallons per day (mgd). The current average dry weather wastewater influent rate to the WWTP is 3.7 mgd based on 2014 flows. The proposed expansion of reclamation use would require that the City's discharge of effluent to Marsh Creek be reduced by up to 1.74 mgd.

5. The City's WWTP provides service to wastewater customers within the City boundaries. The City's wastewater service consists of primarily domestic residential connections with limited commercial customers; no industrial uses occur within the service area. The current population is approximately 53,000 and is projected to be about 76,000 at build-out of the WWTP. The City operates a non-potable water supply system which conveys both recycled water and raw water supplied by the East Contra Costa Irrigation District. Irrigation customer demands for recycled water reach a peak rate of about 0.25 mgd during the summer irrigation season.

6. The City is proposing to maximize use of its recycled water in its service area. The City currently delivers recycled water to seven landscape irrigation customers in addition to several City properties and school athletic fields that are all located in the northeast corner of the City near the WWTP. The combined recycled water demand for existing customers in the system as of mid-2014 is approximately 196 acre-feet annually (afa). The City has indicated that there are many customers in the southwest corner of the City who currently are connected to the non-potable water distribution system and are only receiving raw water at this time, but could potentially utilize recycled water. The City claims that its potential reclaimed water customers have an estimated combined demand of about 1,392 afa.

7. The City will be constructing a new recycled water pipeline, two recycled water storage tanks, and associated pumps and valves for these facilities. The pipeline route is approximately 17,500 feet long and the storage tanks will have a total capacity of about four (4) million gallons. The new facilities will help to deliver an overall quantity of approximately 1,750 afa of the City's tertiary treated wastewater for reclamation purposes.

8. In order to adequately cover its proposed recycled water use, the City has applied with the State Water Board for coverage under the State Water Board Order WQ 2014-0090-DWQ – Corrected General Waste Discharge Requirements for Recycled Water Use (General WDRs), which was adopted on June 3, 2014. In order to obtain coverage under the General WDRs, the City was required to submit a Notice of Intent (NOI) which includes information describing their proposed recycled water use. After the Regional Board determines information included with NOI is adequate, the Regional Water Board will issue a Notice of Applicability to the City indicating that the proposed water recycling project satisfies the general and specific conditions of the General WDRs

9. Public notice of wastewater change petition WW0085 was issued on August 6, 2015. Public notice was provided to water diverters downstream of the WWTP discharge into Marsh Creek as well as the Division's standard agency mailing list for public notices. The public notice, wastewater change petition WW0085 and information submitted with the petition were posted on the State Water Board website. The State Water Board also distributed the notice through an electronic notification system. The State Water Board received no comments regarding the

petition during the public notice period.

10. No comments were received from downstream parties during the public notice period. The State Water Board has determined that the petition for change in the place of use and amount of treated wastewater discharge to Marsh Creek will not cause injury to any other lawful user of water.

11. Under the California Environmental Quality Act (CEQA), the City is the lead agency for preparation of environmental documentation for the project. On June 9, 2015, the City approved a Mitigated Negative Declaration (MND) entitled City of Brentwood Recycled Water Project, SCH No. 2015042010. As part of the MND, on June 9, 2015, the City approved a companion Mitigation Monitoring and Reporting Program (MMRP) for the Recycled Water Project. On July 6, 2015, the City filed a Notice of Determination (NOD) for the project.

12. Based on California Department of Fish and Wildlife's (CDFW) comments on the draft MND, the City included Mitigation Measure-HWQ-2 into the MMRP. Mitigation Measure-HWQ-2 is intended to minimize potential impacts to aquatic resources, and wildlife habitat due to the potential decreases in dissolved oxygen downstream of the WWTP discharge that could occur as a result of the proposed reduction in treated wastewater discharge into Marsh Creek: Mitigation Measure-HWQ-2 reads as follows:

> **Mitigation Measure HWQ-2: Dissolved Oxygen Evaluation and Control Measures.** Upon initiation of increased recycled water deliveries for the Proposed Project, the City shall evaluate Marsh Creek for adverse DO-related effects to the fish community, and implement control measures, if necessary. During periods when recycled water is being distributed from the WWTP during the midsummer months (i.e., July and August), and background Marsh Creek streamflow levels are low, the City will monitor receiving water DO to determine whether DO falls to levels that may result in adverse effects to fish and invertebrates within lower Marsh Creek. If potentially adverse DO levels are observed from monitoring, the City will implement fish and invertebrate surveys upstream and downstream of the WWTP discharge to determine whether actual adverse effects (e.g., reduced species diversity, change in expected community structure, loss of sensitive organisms) are occurring. Should adverse effects be identified through field surveys that are determined to be attributable to the reduced effluent discharge, the City shall implement corrective measures to substantially reduce or eliminate the adverse effects. Such corrective measures include, but may not be limited to, reducing the amount of water used for recycled water irrigation.

13. The State Water Board is a CEQA responsible agency for purposes of considering whether to approve the wastewater change petition that will allow the City to proceed with the proposed project. As a CEQA responsible agency, the State Water Board must consider the environmental documentation prepared by the lead agency, and any other relevant evidence in the record, and reach its own conclusions on whether and how to approve the project involved. (Cal. Code Regs., tit. 14, § 15096, subd. (a).) The State Water Board has considered the MND in deciding whether to approve the petition. There is no evidence that approval of the wastewater change petition, with the lead agency (the City) implementing mitigation measures from the MND to minimize impacts to biological resources, will have any adverse impacts on the environment. The State Water Board will issue a NOD within five days of the date of this order.

14. In addition to any obligation the State Water Board may have under CEQA, the State Water Board has an independent obligation to consider the effect of the proposed project on public trust resources and to protect those resources where feasible. (*National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419.) The mitigation measures proposed in the MND will minimize impacts to biological and cultural resources and no adverse impacts to public trust resources are expected.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. The City is authorized to change the place of use of up to 1.74 mgd (with a maximum quantity of 1,750 afa) of treated wastewater effluent from the Brentwood WWTP that would otherwise have been discharged into Marsh Creek during the period of January 1 to December 31 of each year.

2. The authorized place of use is within Contra Costa County and consists of 810 acres within the City of Brentwood City limits and the Roddy Ranch Golf Course within T1N, R2E and R3E, MDB&M, as shown on the map submitted on October 1, 2015, and on file with the State Water Board.

3. The City's reclaimed treated wastewater effluent will be used for irrigation and industrial purposes within the authorized place of use.

4. The City shall comply with the following term from its June 9, 2015 MMRP for the City's Recycled Water Project:

   Mitigation Measure HWQ-2: Dissolved Oxygen Evaluation and Control Measures.

   Upon initiation of increased recycled water deliveries for the Proposed Project, the City shall evaluate Marsh Creek for adverse DO-related effects to the fish community, and implement control measures, if necessary. During periods when recycled water is being distributed from the WWTP during the midsummer months (i.e., July and August), and background Marsh Creek streamflow levels are low, the City will monitor receiving water DO to determine whether DO falls to levels that may result in adverse effects to fish and invertebrates within lower Marsh Creek. If potentially adverse DO levels are observed from monitoring, the City will implement fish and invertebrate surveys upstream and downstream of the WWTP discharge to determine whether actual adverse effects (e.g., reduced species diversity, change in expected community structure, loss of sensitive organisms) are occurring. Should adverse effects be identified through field surveys that are determined to be attributable to the reduced effluent discharge, the City shall implement corrective measures to substantially reduce or eliminate the adverse effects. Such corrective measures include, but may not be limited to, reducing the amount of water used for recycled water irrigation.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
AMANDA MONTGOMERY, FOR

Barbara Evoy, Deputy Director
Division of Water Rights

Dated: OCT 12 2015