



**REGULAR CITY COUNCIL MEETING
MEETING AGENDA
WEDNESDAY, JANUARY 11, 2017**

**Closed Session Meeting – 5:30 PM
Regular Meeting - 6:30 PM**

**City Hall – Beryl P. Robinson, Jr. Conference Room
317 Broad Street, Nevada City, CA 95959**

MISSION STATEMENT

The City of Nevada City is dedicated to preserving and enhancing its small town character and historical architecture while providing quality public services for our current and future residents, businesses and visitors.

Evans Phelps, Mayor

**Reinette Senum, Council Member
David Parker, Council Member**

**Duane Strawser, Vice Mayor
Valerie Moberg, Council Member**

The City Council welcomes you to its meetings which are scheduled at 6:30 PM on the 2nd and 4th Wednesdays of each month. Your interest is encouraged and appreciated. This meeting is recorded on DVD and is televised on local public television Channel 17. Other special accommodations may be requested to the City Clerk 72 hours in advance of the meeting. Please turn off all cell phones or similar devices. Action may be taken on any agenda item. Agenda notices are available at City Hall. Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Hall at 317 Broad Street, Nevada City, CA during normal business hours.

ANY MEMBER OF THE PUBLIC DESIRING TO ADDRESS THE COUNCIL ON ANY ITEM ON THIS AGENDA: After receiving recognition from the Mayor, give your name and address, and then your comments or questions. Please direct your remarks to the Councilmembers. In order that all interested parties have an opportunity to speak, please limit your comments to the specific item under discussion. All citizens will be afforded an opportunity to speak, consistent with their Constitutional rights. Time limits shall be at the Mayor's discretion. **IF YOU CHALLENGE** the Council's decision on any matter in court, you will be limited to raising only those issues you or someone else raised at the meeting or Public Hearing described on this agenda, or in written correspondence delivered to the City Council at, or prior to, the meeting or Public Hearing.

CLOSED SESSION MEETING – 5:30 PM

1. Pursuant to Government Code Section 54956.8 Real Property Transactions: Closed meeting with negotiators, City Manager Mark Prestwich, Contract City Attorneys Hal DeGraw and Kimberly Hall Barlow to participate in negotiations with representatives of Sierra Fund regarding purchase and/or terms of acquisition of property identified as APN 05-100-69 and 97 (portions).

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Moberg, Parker, Senum, Vice Mayor Strawser, & Mayor Phelps

PLEDGE OF ALLEGIANCE

PROCLAMATION:

PRESENTATION:

BUSINESS FROM THE FLOOR

1. PUBLIC COMMENT

Under Government Code Section 54954.3, members of the public are entitled to address the City Council concerning any item within the Nevada City Council's subject matter jurisdiction. Comments on items NOT ON THE AGENDA are welcome at this time. Normally, public comments are limited to no more than three minutes each. **Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda.**

2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:

3. CONSENT ITEMS:

All matters listed under the Consent Calendar are to be considered routine by the City Council and will be enacted by one motion in the form listed. There will be no separate discussion of these items unless, before the City Council votes on the motion to adopt, members of the Council, City staff or the public request specific items to be removed from the Consent Calendar for separate discussion and action.

A. Subject: Accounts Payable Report: December 2016
Recommendation: Receive and file.

B. Subject: Tree Mortality Grant Program Agreements
Recommendation: Pass a Motion: 1) Approving Resolution 2017-XX authoring the Mayor to sign an Agreement with California Department of Forestry and Fire Protection; and 2) Authorizing the City Manager to sign the Grant Agreement accepting \$200,000 from the State Natural Resources Agency.

C. Subject: Compliance with the California Environmental Quality Act (CEQA) for the Little Deer Creek Restoration and Floodplain Mitigation Project
Recommendation: Pass Resolution 2017-XX adopting the Mitigated Negative Declaration (MND) prepared by Stantec, and Sierra Streams Institute in compliance with CEQA.

D. Subject: REQUEST FOR EXTENSION OF TIME – Glenn Christ, Applicant/Owner Request to extend recordation of Final Map/Use Permit for 16-unit subdivision known as “Gracie Commons” for 2 years, pursuant to City’s Subdivision Ordinance Section 16.04.380
Recommendation: Approve the Extension of Time for the Tentative Final Map, the Use Permit accommodating the Planned Unit Development proposal, and the Architectural Review, subject to the Conditions of Approval as previously approved.

E. Subject: Agreement Between County of Nevada and City of Nevada City for Management of the Nevada City Veteran’s Building

Recommendation: Pass a Motion authorizing the Mayor to execute an Agreement with the County of Nevada for management of the Nevada City Veteran’s Building.

F. Subject: Correction to Side Letter No. 1 for the Nevada City Police Officers Association (NCPOA) and Side Letter No. 1 to Correct the Nevada City Police Supervisors and Nevada County Professional Firefighters Local 3800 Memorandum of Understanding (MOU) Implementation Dates

Recommendation: Review and approve side letters for the NCPOA, Nevada City Police Supervisors and Nevada County Professional Firefighters Local 3800 correcting implementation dates for salary and CalPERS contribution increases.

4. APPROVAL OF ACTION MINUTES:

A. City Council Meeting – December 14, 2016

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. **Subject:** Monthly Update on City Council Six-Month Strategic Objectives

Recommendation: Receive and file.

6. PUBLIC HEARINGS:

7. OLD BUSINESS:

A. **Subject:** Ordinance: Adding Chapter 1.22 to Title 1 and Chapter 9.28 to Title 9 of the Nevada City Municipal Code Relating to Establish Administrative Enforcement and Civil Remedies for Safety Violations on Private Property (Second Reading)

Recommendation: Waive further reading and pass an Ordinance adding Chapter 1.22 to Title 1 and Chapter 9.28 to Title 9 of the Nevada City Municipal Code relating to Establishing Administrative Enforcement and Civil Remedies for Safety Violations on Private Property.

B. **Subject:** Ordinance: Amending Chapter 5.28 of the Nevada City Municipal Code Pertaining to Cable Systems and State Video Franchises (Second Reading)

Recommendation: Waive further reading and pass an Ordinance amending Chapter 5.28 of the Nevada City Municipal Code relating to Cable Systems and State Video Franchises.

8. NEW BUSINESS:

A. **Subject:** Review of “ParkEasy Nevada City” Parking Expansion Strategy

Recommendation: Review and provide direction to staff to convene a community workshop for citizen review of the “ParkEasy Nevada City” parking expansion strategy and refer proposal to the Planning Commission for review.

B. **Subject:** Ordinance: Regulation of Mobile Food Vending in Nevada City

Recommendation: Approve An Ordinance Adding Chapter 10.44 to the Nevada City Municipal Code Regulating Mobile Food Vending on Public and Private Property

C. **Subject:** An Ordinance of the City of Nevada City amending Title 15 of the Nevada City Municipal Code to adopt the 2016 California Building Standards with local amendments similar to those adopted by Nevada County by Ordinance No. 2424 (First Reading)

Recommendation: Approve finding that CEQA general rule exception applies, finding this action reflects the independent judgment of the City Council of Nevada City; approve for introduction and first reading of ordinance by title only, waiving further reading of the entire Ordinance.

9. CORRESPONDENCE:

10. ANNOUNCEMENTS:

11. CITY MANAGER’S REPORT:

12. ADJOURNMENT

Certification of Posting of Agenda

I, Corey Shaver, Administrative Supervisor for the City of Nevada City, declare that the foregoing agenda for the January 11, 2017 Regular Meeting of the Nevada City City Council was posted January 6, 2017 at the office of the City of Nevada City (City Hall). The agenda is also posted on the City’s website www.nevadacityca.gov.

Signed January 6, 2017 at Nevada City, California

_____, Corey Shaver, Administrative Supervisor

**CITY OF NEVADA CITY
City Council
Long Range Calendar**

January 25, 2017	Regular Council Meeting
February 8, 2017	Regular Council Meeting
February 13, 2017	Special Meeting – City Council/Planning Commission Goal Setting Workshop
February 23, 2017	Regular Council Meeting

NOTE: This list is for planning purposes; items may shift depending on timing and capacity of a meeting.

NOTICE: *As presiding officer, the Mayor has the authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any such meeting for disorderly conduct, or for making personal, impertinent, or slanderous remarks, using profanity, or becoming boisterous, threatening or personally abusive while addressing said Council and to enforce the rules of the Council.*

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
12-16	ALH02 (ALHAMBRA & SIERRA SPRINGS)	111716	11/17/16	/ /		40.99	DPW OFFICE WATER
12-16	AMA00 (SYNCB/AMAZON)	099386292	10/20/16	/ /		37.91	BATTERIES/PARKING METERS
		205858827	10/17/16	/ /		94.48	BATTERIES/PARKING METERS
		Vendor's Total ----->				132.39	
12-16	AT&16 (AT&T)	155811184	11/28/16	/ /		94.86	WWTP INTERNET 10/29-11/28/16
12-16	B&C01 (B & C TRUE VALUE HOME CTR)	246811	11/23/16	12/23/16	A	22.64	PARKING METERS
		246812	11/23/16	12/23/16	A	32.31	VICTORIAN CHRISTMAS LED LIGHTS
		Vendor's Total ----->				54.95	
12-16	BAR00 (MONICA BARBAO)	121516	12/29/16	/ /		25.00	REIMB - CLEARS TRAINING/MEETING
12-16	BLU05 (BLUE SHIELD OF CALIFORNIA)	163190009	11/14/16	/ /		42172.53	HEALTH BENEFITS 12/1-12/31/16
12-16	BUS02 (BUSINESS CARD/B OF A VISA)	246293	11/14/16	/ /		358.95	MINUTE BOOKS
12-16	CAN03 (SYLVIA J. CANO)	NOV16	11/28/16	/ /		1100.00	CITY HALL/VETS CLEANING NOVEMBER 2016
12-16	CAN05 (CANON FINANCIAL SERVICES, I	16702199	11/12/16	/ /		670.49	COPIER CONTRACT 11/1-11/30/16, USAGE 10/1-10
12-16	CAR09 (KEVIN CARTZDAFNER)	121316	12/13/16	/ /		175.00	REIMBURSEMENT
		121316u	12/29/16	/ /		175.00	-Ck# 030833 Reversed
		Vendor's Total ----->				.00	
12-16	CLE02 (C.L.E.A.R.S., INC.)	DEC 2016	12/05/16	/ /		50.00	2017 ANNUAL DUES
12-16	COA01 (COASTLAND)	40484	10/31/16	/ /		1212.50	INFRASTRUCT ASSESSMENT WWTP/WTP #1043122 OCT
12-16	COU06 (COUNTY OF NEVADA)	DEC 2016	12/16/16	01/15/17	A	8555.56	POLICE DEPT. BROADCAST DSP - DEC 2016
12-16	DEP18 (DEPARTMENT OF TOXIC SUBSTAN	16SM1903	11/21/16	/ /		2307.30	PROVIDENCE MIN PRJ#102158 SM 7/16-9/16
12-16	FON02 (DANIEL FONSECA)	120516	12/05/16	/ /		120.00	INTERN EXPENSES
		121316	12/23/16	/ /		90.00	INTERN EXPENSES
		Vendor's Total ----->				210.00	
12-16	GIR05 (STEVE GIRANIS)	120816	12/08/16	/ /		30.00	INTERN EXPENSES
12-16	GOO02 (SAM GOODSPEED)	120616	12/06/16	01/05/17	A	19.32	REIMBURSEMENT
12-16	GRA01 (GRAY ELECTRIC COMPANY)	046433	11/29/16	12/29/16	A	26.00	ALARM SERVICES CITY HALL DEC 2016
		046434	11/29/16	12/29/16	A	28.00	ALARM SERVICES SEAMANS LODGE DEC 2016
		Vendor's Total ----->				54.00	
12-16	HAN01 (HANSEN BROS. ENTERPRISES)	288108	10/19/16	11/18/16	A	138.60	CALTRANS NEW WATER SERVICES - SAND
		288109	10/19/16	11/18/16	A	177.99	CALTRANS NEW WATER SERVICE - ROAD ROCK
		288214	10/19/16	11/18/16	A	209.03	CALTRANS NEW WATER SERVICE - ASPHALT
		Vendor's Total ----->				525.62	
12-16	HIR00 (HIRERIGHT, LLC)	H0092203	11/30/16	/ /		28.86	CUST#GOV767C BACKGROUND ANDRESEN
12-16	HOL01 (HOLDREGE & KULL, INC.)	1016132	11/09/16	12/09/16	A	104.00	BRIDGE ST. ADMIN ASSISTANCE
12-16	HOL09 (LUKE HOLDCROFT)	121316	12/13/16	/ /		357.00	REIMBURSEMENT
12-16	ICM03 (I.C.M.A.)	2017	12/02/16	01/01/17	A	905.50	MEMBER#439025 DUES FOR 1/1/17-12/31/17

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
12-16	LIE00 (LIEBERT CASSIDY WHITMORE)	1430969	10/31/16	/ /		5481.00	LEGAL SERVICES HR INVESTIGATION SCHMITZ OCT
12-16	LSA01 (LSA ASSOCIATES, INC.)	149343	11/04/16	/ /		8875.92	NEVADA ST. BRIDGE ENVIRONMNTL PROJ#NCV1601 O
12-16	MAT10 (STUART MATTHEWS)	120516	12/05/16	/ /		100.00	CLEANING DEPOSIT VETS BUILDING 11/30/16
12-16	NCC02 (NCCSIF)	1307	10/01/16	/ /		32033.00	2ND QUARTER WORKERS COMP FY 16/17
12-16	NCT00 (NEVADA CO. DIGITAL MEDIA CE	1QPEG)	11/23/16	/ /		1709.76	1ST QUARTER COMCAST PEG FEES FOR INV#352453
12-16	NEV02 (NEVADA IRRIGATION DISTRCT)	OCT2016	11/14/16	12/14/16	A	8092.58	ACCT#17033 DS CANAL SUGARLOAF 9/30-10/31/16
12-16	NEV06 (NEVADA CITY ENGINEERING)	26950	11/11/16	12/11/16	A	392.00	BASE MAP UPDATES - OCTOBER 16
12-16	NOR05 (NORTH STAR TRUCKING, INC.)	44377	11/02/16	12/02/16	A	240.00	UPPER PARK AVE. GRAVEL
12-16	NOR30 (NORTH STATE CONSULTING)	16-11	11/30/16	/ /		5056.00	ENGINEERING SERVICES VARIOUS PROJ NOV 2016
12-16	NOR33 (WILLIAM J. FALCONI, DBA NOR	16-11	12/01/16	/ /		768.00	CABY WASHINGTON ENGINEERING SERVICES NOV 201
12-16	PAC02 (PACIFIC GAS & ELECTRIC)	OCT2016 NOV 2016	11/15/16 11/30/16	12/15/16 12/30/16	A A	33762.93 1507.27	ACCT#497036494-8,8071-9,5674-1,1982-6 OCT/NO ELEC/GAS NOV/DEC 16, 3071-9,5674-1,1982-6
			Vendor's Total ----->			35270.20	
12-16	PAR13 (PARENTS' RESOURCE GUIDE)	1716	11/29/16	/ /		356.27	CAMP FAIR MATERIALS AND SUPPLIES
12-16	PER01 (PERS FISCAL SERVICES DIVISI	1105-1118	11/18/16	12/18/16	A	16042.95	CALIFORNIA PERS PAYABLE 11/5-11/18/16
12-16	PIT04 (PITNEY BOWES POSTAGE BY PHO	NOV2016	11/06/16	/ /		836.49	ACCT#8000-9090-0968-2134 POSTAGE
12-16	PLA01 (PLAZA TIRE CO., INC.)	3209357	11/16/16	12/16/16	A	108.80	TIRE MAINTAINENCE
12-16	POR03 (PORTER ENGINEERING)	SEP/NOV16	11/10/16	/ /		3427.50	LDC REST ENGINEERING SERVICES 9/23/16-11/10/
12-16	PRE05 (PREMIER ACCESS INSURANCE CO	DEC2016 NOV/DEC16	11/11/16 11/11/16	/ / / /		2830.74 162.44	DENTAL BENEFITS GROUP#3876 DEC 2016 COBRA SIEGFRIED NOV/DEC 2016
			Vendor's Total ----->			2993.18	
12-16	REE02 (REED'S LOCKSMITHING, INC.)	313/314	11/16/16	12/16/16	A	5.84	PROPERTY KEY TICKET #65313/#65314
12-16	REI06 (LORRAINE REICH, ATTORNEY)	120516	12/05/16	/ /		100.00	CLEANING DEPOSIT VETS BUILDING 11/27/16
12-16	RIB02 (RIEBBE'S NAPA AUTO PARTS)	726401 726815 727072 727130	10/20/16 10/24/16 10/26/16 10/26/16	11/19/16 11/23/16 11/25/16 11/25/16	A A A A	19.55 .81 48.83 2.73	VEHICLE MAINTENANCE VEHICLE MAINTENANCE CABLES PD - WINDSHIELD WASH
			Vendor's Total ----->			71.92	
12-16	ROB03 (ROBINSON ENTERPRISES, INC.)	7983 16102396 16102400 16111373 16111374 16111377	11/04/16 10/31/16 10/31/16 11/15/16 11/15/16 11/15/16	12/04/16 11/30/16 11/30/16 12/15/16 12/15/16 12/15/16	A A A A A A	540.00 954.04 346.19 566.97 888.53 238.46	DPW-MAYBERT BRIDGE-CUST#141221, INV#7983, 11/1 PD-FUEL-CUST#141120, INV#FI16102396, 10/31-11/ FD-FUEL, CUST#141217, FI1610400, 10/31/16-11/15 DPW-FUEL-CUST#141100, INV#FI16111373, 11/1-11/ FD FUEL/CUST# 141120 11/1-11/15/16 FI1611137 FD-FUEL-CUST#141217, INV#FI16111377, 11/1-11/1
			Vendor's Total ----->			3534.19	
12-16	SEW02 (DEREK SEWELL)	120516 11/18/16	12/05/16 11/18/16	/ / / /		180.00 120.00	INTERN EXPENSES 11/19/16-12/02/16 FD INTERN LABOR-11/5/16-11/18/16
			Vendor's Total ----->			300.00	

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
12-16	SIE67 (SIERRA STREAMS INST.)	OCT16	11/17/16	/ /		5028.65	LDC RESTORATION PROJECT SSI OCTOBER 2016
12-16	SMA02 (SMARTERBROADBAND, INC.)	1125825	12/01/16	/ /		140.00	FIRE DEPT-TELEPHONE DEC 2016
12-16	SON03 (SONSRAY MACHINERY LLC)	P09489-04 W01668-04 W01675-04	11/14/16 11/04/16 11/11/16	/ / / / / /		97.29 1323.00 756.05	BACKHOE FUEL CAP EQUIPMENT REPAIR BACKHOE REPAIR
			Vendor's Total ----->			2176.34	
12-16	SPI03 (SPIRAL)	42823	12/01/16	/ /		61.95	INTERNET SVCS - 1/1/17-2/1/17
12-16	STA03 (STANDARD PLUMBING SUPPLY CO)	FWC873 FWNM87 FWT053 FWTQ28 FWTV84 FXH141 FXLQ12	11/04/16 11/14/16 11/17/16 11/17/16 11/17/16 11/29/16 12/02/16	/ / / / / / / / / / / / / /		14.53 43.15 35.89 170.55 93.71 132.86 6.17	WWTP-PRIMER & GLUE DPW-SIDEWALK REPAIR DPW-SIDEWALK REPAIR DPW-CALTRANS WATER BOX LID DPW-SIDEWALK REPAIR PINE ST. SEWER MAINTAINENCE WATER SHUT OFF KEY
			Vendor's Total ----->			496.86	
12-16	STA09 (TOM STASER)	52080620	11/14/16	/ /		234.22	SEWER PLUGIN @ T. STASER HOUSE 502 SACRAMENT
12-16	STA21 (STATE BOARD EQUALIZATION)	25343685	11/08/16	12/08/16	A	153.54	WR STF 094-010902, 7/1/16-6/30/17
12-16	STA31 (STATE WATER RESOURCES)	122916	12/29/16	/ /		90.00	RE-EXAMINATION FEES WATER DIST-STARNES & MCC
12-16	STA46 (STANTEC CONSULTING SERVICES)	1117586	10/28/16	/ /		2424.50	PROJ#184030558/PERIOD ENDING 9/23/16
12-16	SUN01 (SUNRISE ENVIRONMENTAL)	68938 69183	11/04/16 11/14/16	12/04/16 12/14/16	A A	123.74 349.10	STOCK BATHROOM STOCK
			Vendor's Total ----->			472.84	
12-16	THE10 (THE AUTO SHOP)	17488	11/16/16	/ /		817.45	#35 REPAIRS
12-16	TRO04 (TROPHIES ANYONE?)	682423 682425	10/06/16 10/10/16	/ / / /		24.15 13.01	PLANNING COMM NAME PLATES PLANNING COMM NAME PLATE (MOON)
			Vendor's Total ----->			37.16	
12-16	UNI01 (THE UNION)	4865210 4865960 4865961 4866602	11/10/16 11/17/16 11/17/16 11/25/16	12/10/16 12/17/16 12/17/16 12/25/16	A A A A	178.60 224.76 219.50 228.28	CITY PLANNER PRINT. & ADV ENGINEERING-NEVADA ST BRIDGE WORKSHOP NOTICE LDC RESTORATION @ PIONEER PARK CEQA ENGINEERING-NEW SEWER LINE (GROVE ST)
			Vendor's Total ----->			851.14	
12-16	UNI21 (UNITED DOMESTIC WORKERS)	11/10/16	11/21/16	/ /		100.00	CLEANING DEP REFUND-11/10/16 UNITED DOMESTIC
12-16	UPS01 (UPS STORE 5417/DJE CONSULTA OCT 2016)	10/31/16	/ /			55.06	NOTARY/SHIPPING-SCRIMAGER, INV#7438,#7439,#74
12-16	USD05 (USDI, BUREAU OF LAND MGMT)	201700810	11/21/16	12/21/16	A	16544.92	CACA004538 RIGHT OF WAY WTP BLM-4/1/17-12/31
12-16	VAL08 (VALLEY TOXICOLOGY SERV)	2341	10/31/16	/ /		355.00	DRUG/ALCOHOL/BLOOD ANALYSIS
12-16	VER01 (VERIZON WIRELESS)	775945818	11/23/16	/ /		462.15	PD CELL SERVICES 10/24-11/23/16
12-16	VIS04 (VISTA BUILDERS SUPPLY)	12277	10/26/16	/ /		1706.93	WWTP - LIME
12-16	WEI04 (WEIDNER & ASSOCIATES)	9984 9984u	11/02/16 12/02/16	/ / / /		3148.00 3148.00	COMMERCIAL ST PARKING LOT-RESTORE BANK -Ck# 030823 Reversed
			Vendor's Total ----->			0.00	

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
12-16	WEI07 (WEISS LANDSCAPING)	9984	11/02/16	/ /		3148.00	EROSION CONTROL COMMERCIAL ST. PARKING LOT
12-16	WES26 (WEST COAST FIRE PROTECTION)	16950	10/31/16	/ /		441.00	RR MUSEUM - RESET VALVE ON SPRINKLER SYSTEM
12-16	WIL02 (WILLIAMS STATIONERY)	126978	11/08/16	12/08/16	A	146.61	OFFICE SUPPLIES STOCK/PAPER
		0126512	10/07/16	11/06/16	A	11.72	PD - OFFICE SUPPLIES
		0127245	12/20/16	01/19/17	A	20.26	PD REPLACEMENT STICKYS UNV35612/MMM653AN
		0127290C	12/20/16	01/19/17	A	9.20	-RETURN PD OFFICE SUPP UNV35662/35668
		0127198-0	11/23/16	12/23/16	A	163.82	OFFICE SUPPLIES
		Vendor's Total ----->				333.21	
12-16	XIO00 (XIO, INC.)	20120656	11/15/16	/ /		265.00	MONTHLY SERVICE WATER PLANT
12-16	YUB05 (YUBA DOCS MEDICAL GROUP)	1331	11/20/16	/ /		135.00	PRE-EMPLOY - ANDRESEN
12-16	ZYD01 (JAMIE ZYDONIS)	111516	11/15/16	12/15/16	A	161.39	REIMBURSEMENT
		111516u	12/29/16	/ /		161.39	-Ck# 030859 Reversed
		Vendor's Total ----->				.00	
12-16	ZYD02 (DAWN ZYDONIS)	111516	11/15/16	/ /		161.39	EXPENSE REIMBURSEMENT
		120216	12/02/16	/ /		997.53	LIFEGUARD MANUALS/USPS/OFFICE SUPPLIES
		Vendor's Total ----->				1158.92	
Total of Purchases -->						222495.26	

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

January 11, 2017

TITLE: Tree Mortality Grant Program Agreements

RECOMMENDATION: Pass a Motion: 1) Approving Resolution 2017-XX authoring the Mayor to sign an Agreement with California Department of Forestry and Fire Protection; and 2) Authorizing the City Manager to sign the Grant Agreement accepting \$200,000 from the State Natural Resources Agency.

CONTACT: Dawn Zydonis, Parks & Recreation Supervisor

BACKGROUND / DISCUSSION: Cal Fire offered the Tree Mortality Grant Program with the intentions that hazardous trees that pose a threat to public health and safety would be removed. The projects awarded with this funding are required to address the risk and potential impact of wildfire to habitable structures in the State Responsibility Area and/or the hazardous condition of dead and dying trees to public health and safety. While completing the application for grant funding staff focused on trees throughout the City's open space parcels that met this criteria.

The City has been awarded \$200,000, the full amount requested. A chipper is included in the grant application budget. This chipper will assist the City's Public Works and Fire Departments with ongoing clearing that is completed throughout the City on a regular basis.

ENVIRONMENTAL CONSIDERATIONS: California Environmental Quality Act (CEQA) documentation must be completed before any work can begin on this project. The City Planner is working on that documentation at this time.

FISCAL IMPACT: There was no match requirement for this grant. The grant will fund all work completed. The grant provides 12% of the award amount (\$24,000) for administration.

ATTACHMENTS:

- ✓ Resolution 2017-XX
- ✓ Tree Mortality Grant Agreement with Grant Application

RESOLUTION 2017-XX

**A RESOLUTION OF THE CITY OF NEVADA CITY
AUTHORIZING THE CITY MANAGER TO SIGN THE DEPARTMENT OF
FORESTRY AND FIRE PROTECTION AGREEMENT (5GA16119)**

WHEREAS, the City of Nevada City submitted a grant application to the Department of Forestry and Fire Protection for a Tree Mortality Program Grant; and

WHEREAS, the City of Nevada City has been awarded \$200,000 in funding through said grant.

NOW, THEREFORE, BE IT RESOLVED that the Nevada City Council does hereby approve the agreement with the California Department of Forestry and Fire Protection; and

BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to sign and execute said agreement on behalf of the City of Nevada City; and

BE IT FURTHER RESOLVED that the City Manager or Assistant City Manager are hereby authorized to sign and execute invoices on behalf of the City of Nevada City.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Nevada City on the 11th day of January 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Evans Phelps, Mayor

Niel Locke, City Clerk



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
 SACRAMENTO, CA 94244-2460
 (916) 653-7772
 Website: www.fire.ca.gov



December 15, 2016

Catrina Olson
City of Nevada City
317 Broad St.
Nevada City, CA 95959

5GA16119; Nevada City Tree Mortality

This agreement cannot be considered binding on either party until approved by appropriate authorized CAL FIRE designee. No services should be provided prior to approval, as the State is not obligated to make any payments on any Agreement prior to final approval. FAILURE TO RETURN ALL DOCUMENTS BY DATE BELOW MAY RESULT IN LOSS OF FUNDING.

Please contact Elsa Hucks at (530) 889-0111 x127 if you have questions concerning services to be performed.

Please contact Bobby Nguyen at (916) 651-6620 if you have any administrative questions or concerns.

1. Full grant agreement including terms and conditions, project grant application form, scope of work, budget and map enclosed. Print (single sided) and return three (3) sets of agreements with original signatures in blue ink. In addition, please return the forms below, as applicable to your entity, to be received by CAL FIRE no later than **January 31, 2017**.
 - Attachment 5 – Std. 204 Payee Data Record <http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>
 - Attachment 7 – Board Resolution or Attesting Document granting authority to sign (non-profit and local entity applicants)
 Return all originals and requested documents for further processing to:
 Department of Forestry and Fire Protection
 Attention: Grants Management Unit/SRA Fire Prevention Fund Grant
 P.O. Box 944246
 Sacramento, CA 94244-2460
As CAL FIRE has a limited time to obligate these funds, it is highly recommended that all originals are sent via overnight mail to the following physical address:
 1300 U Street
 Sacramento, CA 95818
2. Please initial change(s) made on all copies of the agreement on page(s) as marked.
3. Enclosed for your record is one fully executed copy of the agreement referenced above. When billing for services performed under this agreement, your invoices must reference the agreement number above and be submitted to the contract manager.

Thank you,

Bobby Nguyen
 Grants Analyst
 Grants Management Unit

Enclosures

**State of California
Dept. of Forestry and Fire Protection (CAL FIRE)
Resource Management
GRANT AGREEMENT**

APPLICANT: City of Nevada City
PROJECT TITLE: Nevada City Tree Mortality
GRANT AGREEMENT: 5GA16119

PROJECT PERFORMANCE PERIOD IS from Upon Approval through March 15, 2019.
 Under the terms and conditions of this Grant Agreement, the applicant agrees to complete the project as described in the project description, and the State of California, acting through the Dept. of Forestry & Fire Protection, agrees to fund the project up the total state grant amount indicated.

PROJECT DESCRIPTION: Remove 1,000 trees that have died or are dying from invasion of bark beetles and drought conditions. Trees are located on approximately 300 acres of open space that is owned and managed by the city.

Total State Grant not to exceed \$ 200,000.00 (or project costs, whichever is less)

**The Special and General Provisions attached are made a part of and incorporated into this Grant Agreement.*

City of Nevada City

**STATE OF CALIFORNIA
DEPARTMENT OF FORESTRY
AND FIRE PROTECTION**

Applicant

By _____
Signature of Authorized Representative

By _____

Title _____

Title: **Helge Eng,
Deputy Director, Resource Management**

Date _____

Date _____

CERTIFICATION OF FUNDING

AMOUNT OF ESTIMATE FUNDING \$ 200,000.00		GRANT AGREEMENT NUMBER 5GA16119		FUND	
ADJ. INCREASING ENCUMBRANCE \$ 0.00		APPROPRIATION General			
ADJ. DECREASING ENCUMBRANCE \$ 0.00		FUNCTION General Fund			
UNENCUMBERED BALANCE \$ 200,000.00		LINE ITEM ALLOTMENT 3540-001-0001	CHAPTER 23	STATUTE 2016	FISCAL YEAR 16/17
T.B.A. NO.	B.R. NO. FY 16/17	INDEX 9212	OBJ. EXPEN D 418	PCA 94372	PROJECT/WORK PHASE VENDOR# 819300-00

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance.

SIGNATURE OF CAL FIRE ACCOUNTING OFFICER

DATE

TERMS AND CONDITIONS OF GRANT AGREEMENT

I. RECITALS

1. This Agreement, is entered into between the State of California, by and through the California Department of Forestry and Fire Protection (CAL FIRE), hereinafter referred to as "STATE" and City of Nevada City, hereinafter referred to as "GRANTEE".
2. The STATE hereby grants to GRANTEE a sum (hereinafter referred to as "GRANT FUNDS") not to exceed Two Hundred Thousand Dollars (\$200,000.00).
3. In addition to the terms and conditions of this Agreement, the STATE and GRANTEE agree that the terms and conditions contained in the documents set forth below are hereby incorporated and made part of this agreement.
 - a. State Responsibility Area Fire Prevention Fund and Tree Mortality Grant Program Procedural Guide
 - b. The submitted Application, Scope of Work, Budget Detail, and Exhibits

II. SPECIAL PROVISIONS

1. Recipients of GRANT FUNDS pursuant to Chapter 23, Statutes of 2016 shall abide by the provisions in this Agreement. This includes the requirement that work shall not commence prior to the execution of this Agreement by both parties. Any work started prior to the execution of this Agreement will not be eligible for funding under the terms of this Agreement.
2. As precedent to the State's obligation to provide funding, GRANTEE shall provide to the STATE for review and approval a detailed budget, specifications, and project description. Approval by the STATE of such plans and specifications, or any other approvals provided for in this Agreement, shall be for scope and quality of work, and shall not relieve GRANTEE of the obligation to carry out any other obligations required by this Agreement, in accordance with applicable law or any other standards ordinarily applied to such work or activity.
3. All informational products (e.g., data, studies, findings, management plans, manuals, photos, etc.) relating to California's natural environment produced with the use of GRANT FUNDS shall be available for public use.

III. GENERAL PROVISIONS

1. Definitions
 - a. The term "Agreement" means grant agreement number 5GA16119.

GRANT NUMBER 5GA16119
CITY OF NEVADA CITY
NEVADA CITY TREE MORTALITY

- b. The term "GRANT FUNDS" means the money provided by the STATE to the GRANTEE in this Agreement.
- c. The term "GRANTEE" means an applicant who has a signed Agreement for the award for GRANT FUNDS.
- d. The term "Other Sources of Funds" means all matching fund sources that are required or used to complete the Project beyond the GRANT FUNDS provided by this Agreement.
- e. The term "STATE" means the State of California, Department of Forestry and Fire Protection (CAL FIRE).
- f. The term "Project" means the development or other activity described in the "Project Scope of Work".
- g. The term "Project Budget Detail" as used herein defines the approved budget plan.
- h. The term "Project Scope of Work" as used herein means the individual scope of work describing in detail the approved tasks.

2. Project Representatives

The project representatives during the term of the agreement will be:

STATE: CAL FIRE	GRANTEE: City of Nevada City
Section/Unit: NEU - Nevada-Yuba-Placer Unit	Section/Unit: N/A
Attention: Elsa Hucks	Attention: Catrina Olson
Mailing Address: 13760 Lincoln Way Auburn CA 95603	Mailing Address: 317 Broad St. Nevada City, CA 95959
Phone Number: (530) 889-0111 x127	Phone Number: 530-265-2496 x134
Email Address: Elsa.Hucks@fire.ca.gov	Email Address: catrina.olson@nevadacityca.gov

Changes to the project representatives during the term of the agreement shall be made in writing. Notice shall be sent to the above representative for all notice provisions of this Agreement.

3. Project Execution

- a. Subject to the availability of grant monies, the STATE hereby grants to the GRANTEE a sum of money (GRANT FUNDS) not to exceed the amount stated on Section I. RECITALS, Paragraph 2 in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the description of the Project in this Agreement and its attachments and under the terms and conditions set forth in this Agreement.
- b. GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the Project. Any amendment to the Project as set forth in the Application on file with the STATE must be submitted to the STATE for approval in writing. No amendment is allowed until written approval is given by the STATE.
- c. GRANTEE shall complete the Project in accordance with the time of Project performance set forth in this Agreement, unless an amendment has been approved and signed by the STATE under the terms and conditions of this Agreement. Amendments must be requested in advance and will be considered in the event of circumstances beyond the control of the GRANTEE, but in no event less than 30 days from the Agreement expiration date and in no event less than 30 days before the effective date of the amendment. Approval of amendment is at the STATE's discretion.
- d. GRANTEE certifies that the Project Scope of Work complies with all local, State, and federal laws and regulations.
- e. GRANTEE shall comply with the California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000, et. seq. Title 14, California Code of Regulations, Section 15000 et. seq.) and all other local, State, and federal environmental laws. A copy of the certified CEQA document must be provided to STATE before any GRANT FUNDS are made available for any Project activity that could directly impact the environment (e.g. cutting, piling or burning bush, masticating, dozer work, etc.). CEQA compliance shall be completed within one (1) year from start date of the Agreement. The start date is considered the date the last party signs the Agreement. GRANT FUNDS will be made available in advance of CEQA compliance for project activities that do not have the potential to

cause a direct environmental impact (e.g. project planning, locating and marking property or project boundaries, contacting and signing up landowners, etc.).

- f. GRANTEE shall permit periodic site visits by representative(s) of the STATE to ensure program compliance and that work is in accordance with the approved Project Scope of Work, including a final inspection upon Project completion.
- g. GRANTEE, and the agents and employees of GRANTEE, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents, of the STATE.

4. Project Costs and Payment Documentation

- a. Payment by the STATE shall be made after receipt of an acceptable invoice and approval by a duly authorized representative of the STATE. GRANTEE shall submit an invoice for payment to the CAL FIRE Project Representative of the STATE. A final invoice shall be submitted no later than 30 days after completion, expiration, or termination of this Agreement.
- b. For services satisfactorily rendered, and upon receipt and approval of invoices for payment, the STATE agrees to compensate GRANTEE for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto, as Attachment 3 – Final Project Budget, and made a part of this Agreement.
- c. GRANTEE shall submit, in arrears, not more frequently than once a month, and no less than quarterly, an invoice to the STATE for costs paid by GRANTEE pursuant to this Agreement. Each invoice shall contain the following information: the Agreement number, the dates or time period during which the invoiced costs were incurred, expenditures for the current invoice and cumulative expenditures to date by major budget category (e.g., salaries, benefits, supplies, etc.), appropriate supporting documentation, project progress reports, and the signature of an authorized representative of GRANTEE as detailed in the Invoice Guidelines of the State Responsibility Area Fire Prevention Fund and Tree Mortality Grant Program Procedural Guide.
- d. GRANT FUNDS in this Agreement have a limited period in which they must be expended. All GRANTEE expenditures must occur prior to the end of the Project performance period of this Agreement.
- e. Except as otherwise provided herein, GRANTEE shall expend GRANT FUNDS in the manner described in the Project Budget Detail approved by

GRANT NUMBER 5GA16119
CITY OF NEVADA CITY
NEVADA CITY TREE MORTALITY

the STATE. The dollar amount of an item in the Project Budget Detail may be increased or decreased by up to ten percent (10%) of the budget item through reallocation of funds from another item or items, without approval by the STATE; however, GRANTEE shall notify the STATE in writing in project progress reports when any such reallocation is made, and shall identify both the item(s) being increased and those being decreased. Any increase or decrease of an item of more than ten percent (10%) of the budget item must be approved in writing by the STATE before any such increase or decrease is made. A formal approved amendment is required to increase the total amount of GRANT FUNDS.

f. GRANTEE shall promptly submit any and all records at the time and in the form as the STATE may request.

g. GRANTEE shall submit each invoice for payment to:

California Department of Forestry & Fire Protection
Attention: Elsa Hucks
13760 Lincoln Way
Auburn CA 95603

h. Notwithstanding any of the provisions stated within this Agreement, the STATE may at its discretion make advance payment to the GRANTEE, if GRANTEE is a Community-based private non-profit agency, upon written request by the GRANTEE. Advance payment made by the STATE shall be subject to the circumstance and provisions below.

Where hardship circumstances exist for the GRANTEE, the STATE will consider authorizing advance payments. The STATE will consider the following factors in determining whether a hardship situation exists:

- Modest reserves and potential cash flow problems of the GRANTEE including the need for advance funding in order to initiate a project. A justification for advance payment may include items such as the inability to pay for staff, supplies, administration expenses, and to secure contractors for Project work.

The following guidelines will be applied to advance payments:

- Multiple advance payments may be made to a GRANTEE over the life of a project.
- No single advance payment shall exceed 25% of the total grant amount and must be spent on eligible costs within six months of the advance payment request. The balance of unspent advance payment funds not liquidated within the six month spending period

will be billed for the return of the advanced funds to the STATE.
The amount will be returned to the grant balance.

- A request for advance payment must include the same level of expenditure detail and justification as a regular invoice.
- All work under a previous advance payment must be fully liquidated via an invoice and supporting documentation and completed to the STATE's satisfaction before another advance payment will be made.
- Any advance payment received by a GRANTEE and not used for project eligible costs shall be returned to CAL FIRE.
- Advance payments must be deposited into an interest-bearing account. Any interest earned on advance payment funds must be accounted for and reported as program income used toward offsetting the project cost or returned to the STATE.

5. Budget Contingency Clause

- a. If STATE funding for any fiscal year is reduced or deleted for purposes of the TM grant program, the STATE shall have the option to either cancel this Agreement with no liability occurring to the STATE, or if possible and desirable, offer an Agreement amendment to GRANTEE to reflect the reduced amount available for the Project.

6. Project Administration

- a. GRANTEE shall provide the STATE a written report showing total final Project expenditures and matching funds before work on the Project begins. GRANTEE must report to the STATE all sources of other funds for the Project. If this provision is deemed to be violated, the STATE will request an audit of GRANTEE and can delay the disbursement of funds until the matter is resolved.
- b. GRANTEE shall promptly submit written Project reports as the STATE may request throughout the term of this Agreement.
- c. GRANTEE shall submit a final accomplishment report, final invoice with associated supporting documentation, and copies of materials developed using GRANT FUNDS, including but not limited to plans, educational materials, etc. within 30 days of Project completion.

7. Financial Records

- a. GRANTEE shall retain all records described in Section 7(c) below for three (3) years after final payment by the STATE. In the case an audit occurs, all such records shall be retained for one (1) year from the date is audit is completed or the three (3) years, whichever date is later.
- b. GRANTEE shall maintain satisfactory financial accounts, documents, and records for the Project and make them available to the STATE for review during reasonable times. This includes the right to inspect and make copies of any books, records, or reports of GRANTEE pertaining to this Agreement or matters related thereto.
- c. GRANTEE shall keep such records as the STATE shall prescribe, including, but not limited to, records which fully disclose (a) the disposition of the proceeds of state funding assistance, (b) the total cost of the Project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the Project cost supplied by other sources, and (d) any other such records as will facilitate an effective audit. All records shall be made available to the STATE, other State of California agency, or other entity as determined by the State of California for auditing purposes at reasonable times.
- d. GRANTEE shall use any generally accepted accounting system.

8. Project Termination

- a. This Agreement may be terminated by the STATE or GRANTEE upon 30-days written notice to the other party.
- b. If either party terminates the Agreement prior to the completion of the Project, GRANTEE shall take all reasonable measures to prevent further costs to the STATE under the Agreement and the STATE shall be responsible for any reasonable and non-cancelable obligations incurred by GRANTEE in the performance of this Agreement prior to the date of the notice to terminate, but only up to the undisbursed balance of funding authorized in this Agreement.
- c. Failure by GRANTEE to comply with the terms of this Agreement may be cause for suspension of all obligations of the STATE hereunder at the discretion of the STATE.
- d. Failure of GRANTEE to comply with the terms of this Agreement shall not be cause for the suspension of all obligations of the STATE hereunder if in the judgment of the STATE such failure was due to no fault of GRANTEE. At the discretion of the STATE, any amount required to settle at minimum

cost any irrevocable obligations properly incurred shall be eligible for reimbursement under this Agreement.

- e. Final payment to GRANTEE may not be made until the STATE determines the Project conforms substantially to this Agreement.

9. Hold Harmless

- a. GRANTEE shall defend, indemnify and hold the STATE, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of GRANTEE, its officers, agents, or employees. The duty of GRANTEE to indemnify and hold harmless includes the duty to defend as set forth in Civil Code Section 2778. This Agreement supersedes GRANTEE's right as a public entity to indemnify (see Government Code Section 895.2) and contribution (see Government Code Section 895.6) as set forth in Government Code Section 895.4.
- b. GRANTEE waives any and all rights to any type of express or implied indemnity or right of contribution from the STATE, its officers, agents, or employees for any liability resulting from, growing out of, or in any way connected with or incident to this Agreement.
- c. Nothing in this Agreement is intended to create in the public or in any member of it rights as a third-party beneficiary under this Agreement.

10. Tort Claims

FEDERAL:

The United States shall be liable, to the extent allowed by the Federal Tort Claims Act 28 United States Code 2671-2680, for claims of personal injuries or property damage resulting from the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her employment, arising out of this Agreement.

STATE:

The State of California shall be liable, to the extent allowed by law and subject to California Government Code, Title 1, Division 3.6, providing for the filing of tort claims against the State of California, for personal injuries or property damage resulting from the negligent or wrongful act or omission of State of California

employees while acting within the scope of his or her employment, arising out of this Agreement.

11. Nondiscrimination

The State of California prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, sex, marital status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. GRANTEE shall not discriminate against any person on any of these bases.

12. Incorporation

The grant guidelines and the Project Scope of Work, Project Budget Detail and any subsequent amendments or modifications to the Project Scope of Work and Project Budget Detail approved in writing by the STATE are hereby incorporated by reference into this Agreement as though set forth in full in this Agreement.

13. Severability

If any provision of this Agreement or the Project Scope of Work thereof is held invalid, that invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

14. Waiver

No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing and signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether expressed or implied, will constitute consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.

15. Assignment

This Agreement is not assignable by GRANTEE either in whole or in part.



**California Department of Forestry and Fire Protection (CAL FIRE)
SRAFPF & TM Grant Application
Fiscal Year 2016-17 Funding Opportunity**



Please fill out this form completely. Be sure to save a copy of this form for your records. Submit 1 printed copy with original signature(s) and 1 electronic copy and all supporting materials to: California Department of Forestry and Fire Protection, Attention: Grants Management Unit - SRAFPF & TM Grant, P.O. Box 944246, Sacramento, CA 94244-2460. E-mail an electronic copy to CALFIRE.Grants@fire.ca.gov. Be sure to include all attachments.

Please complete the project identification information.

Is your project tree mortality related? Yes No

Is your project in the State Responsibility Area? Yes No

1. Project Tracking #: 16-NEU-0049 CalMapper ID: N/A

Project Name/Title: Nevada City Tree Mortality

County: Nevada **CAL FIRE Unit/Contract County:** NEU - Nevada-Yuba-Placer Unit Please use this 3-letter Unit identifier for file naming (see questions 5 & 14)

2. Sponsoring Organization: City of Nevada City

Organization Type: Other **If Other, Please specify:** City - Local Government

Project Manager Title: Assistant City Manager

First Name: Catrina **Last Name:** Olson

Address 1: 317 Broad St.

Address 2:

City: Nevada City **State:** California **Zip Code:** 95959

Phone Number: 530-265-2496 x134 **Secondary Phone Number:** 530-265-2496 x100

Email Address: catrina.olson@nevadacityca.gov **Fax Number:** 530-265-0187

3. For which activity is funding being requested?

Removal of Dead or Dying Trees

If Other, Please specify

4. Grant Period: Please provide the estimated start date and completion date for your project. Projects **MUST** be completed by March 15, 2019. Note that final billing is due 30 days after project completion. Please use MM/DD/YYYY format.

Project Start Date: 03/01/2017 **Project Completion Date:** 03/15/2019

Tracking #: 16-NEU-0049

Project Name: Nevada City Tree Mortality

5. Project Location: Identify a central point that identifies the general area of project activities. Enter the information in NAD 83 - degrees, minutes and seconds in whole numbers. Enter Longitude as a positive number.

Latitude N Longitude W ° ' ''

Latitude must be between 32 and 42 degrees. Longitude must be between 114 and 125 degrees. Latitude and Longitude minutes and seconds must be between 0 and 60. For planning or public education projects, use a central point in the SRA for the general area covered by the project.

Please attach a Project map in PDF format with geographic information describing your project location. The map should show the surrounding area in relation to the project. **File naming convention:** Features should be named with the Tracking # and Feature Type. Example: 16-UUU-XXXX-MAP.pdf

"Project Area" is the general area where project activities will reduce wildfire risk and/or damage. All projects must have a project area. For planning or public education grants or other projects that don't have well-defined boundaries, provide a map that generally covers the area. For example, for a county-wide public education project, the map should identify the populated portion of the SRA in the county.

6. Project Area Statistics:

For all projects, give an estimate of the project area size and include an estimate of the number of habitable structures impacted by the project. Provide the size of the treatment area for projects that include fuels treatment.

Habitable Dwellings (# of dwellings):

Project Area (acres):

Fuels Treatment Area (acres):

7. SRA Fire Hazard Severity Zones (FHSZ):

What SRA Fire Hazard Severity Zones (FHSZ) are in the project area? SRA Fire Hazard Severity Zone ratings are available at: http://calfire.ca.gov/fire_prevention/fire_prevention_wildland_zones.php

Please provide an approximate number of acres or percentage of the project area in each zone.

FHSZ Rating	Acres	Percent	
Very High	<input type="text"/>	<input type="text" value="20"/>	%
High	<input type="text"/>	<input type="text" value="5"/>	%
Moderate	<input type="text"/>	<input type="text"/>	%
Non SRA (Federal or Local Area)	<input type="text"/>	<input type="text" value="75"/>	%
TOTAL		100	%

Acres Note: Total acres must be the same as Item 6 Project Area (Acres).
Percent Note: Total % must be 100%

8. Limiting Factors:

Are there any existing forest or land management plans; Conservation Easements; Covenant, Conditions & Restrictions (CC&R's); matters related to zoning; use restrictions, or other factors that can or will limit the fire prevention proposed activity?

If checked, describe existing plan(s) and the limitations, if any, in the attached Scope of Work.

9. Timber Harvest Plans:

For fuel reduction projects, is there a timber harvesting document on any portion of the proposed project area for which a "Notice of Completion" has not been filed with CAL FIRE?

If checked, provide the THP identification number and describe the relationship to the project in the attached Scope of Work document.

THP ID Number:

10. Community at Risk: Is the project associated with a community that is listed as a Community At Risk? See

http://osfm.fire.ca.gov/fireplan/fireplanning_communities_at_risk.php

If so, what is the name of the community?
If none, enter "none".

Number of Communities in the project area:

11. Project Budget:

What is the proposed budget? Please include a discussion of the project budget in the Scope of Work and enter the amount from the Project Budget workbook (.xls).

Budget Item	Amount
Grant Portion of project (\$)	<input type="text" value="\$200,000.00"/>
Equipment Purchases (\$)	<input type="text" value="\$50,000.00"/>
Partners (\$)	<input type="text"/>
Total Project Budget (\$)	<input type="text" value="200,000"/>

12. Local Wildland Fire Risk Reduction Plans:

Is the project in, consistent with, or build on a larger plan that deals with the risk and potential impact to habitable structures in the SRA covered by this project? If so, discuss in the Scope of Work. **Select all that apply.**

- CAL FIRE Unit Strategic Fire Plan
- County Fire Department Strategic Fire Plan
- Local Fire Department Plan
- Homeowners' Association Plan
- Fire Safe Council Action Plan
- FIREWISE Community Assessment
- Community Wildfire Protection Plan
- Other Local Plan (Identify in Scope of Work)

13. CEQA Compliance:

Describe how compliance with the California Environmental Quality Act (CEQA) will be achieved in the Scope of Work. Is there an existing (CEQA) document that addresses this project or can be used to meet CEQA requirements?

Please indicate the CEQA document type: *For planning, education and other projects that are exempt from CEQA, select "Not Applicable".*

Document Identification Number

14. Application Submission:

NOTE TO APPLICANT: If you modify the language contained in any part of this document, other than to fill in the blanks, or to provide requested information, your application will be rejected.

Note: Replace XXXX in the file name with the project's ID Number.

Note: Replace UUU in the file name with the 3-letter identifier for the Unit where the project is located. Unit identifiers are listed in the instructions for this application form.

US Mail	Email	Attachments	File Name
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Application Form (.pdf)	<input type="text" value="16-NEU-0049-Application.pdf"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Scope of Work	<input type="text" value="16-NEU-0049-SOW.doc"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Project Budget	<input type="text" value="16-NEU-0049-Budget.xls"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Project Map (.pdf)	<input type="text" value="16-NEU-0049-MAP.pdf"/>
<input type="checkbox"/>	<input type="checkbox"/>	Articles of Incorporation (.pdf)	<input type="text" value="N/A"/>

I certify that the above and attached information is true and correct:

Mark Prestwich
Original Signature Required: Grantee's Authorized Representative

9/23/2016
Date Signed

Printed Name

Title

Executed on:
Date

at
City

Please fill out this form completely. Be sure to save a copy of this form for your records. Submit one (1) electronic copy in fillable PDF format with all supporting materials to CALFIRE.Grants@fire.ca.gov. Please use "SRAFPF/TM Project Application" in the E-mail subject line and include yourself as a cc. Your CC will be proof of your submittal. In addition, submit one (1) hard copy with signatures and all supporting materials to : California Department of Forestry and Fire Protection, Attention: Grants Management Unit - SRAFPF & TM Grant, P.O. Box 944246, Sacramento, CA 94244-2460. Hard copy will need to be postmarked no later than September 28, 2016. Electronic copy must be submitted no later than September 28, 2016 at 3:00 pm. Applications postmarked after this date and time will be considered late.

If you would like to mail the hard copy via expedited/overnight mail, please E-mail CALFIRE.Grants@fire.ca.gov for the physical mailing address.

Tracking #: 16-NEU-0049

Project Name: Nevada City Tree Mortality

California Department of Forestry and Fire Protection (CALFIRE)
SRAFPF/TM Grant Project FY 2016-17
Scope of Work

Project Name: Nevada City Tree Mortality

Project tracking number: 16-NEU-0049

Example: 16-UUU-XXXX

Project Description Summary: Please provide a paragraph summarizing the proposed project including the location, habitable structures, acres treated, number of trees to be removed, etc.

The City of Nevada City is located in the foothills of the Sierra Nevada Mountain Range in the County of Nevada. Funding from the Tree Mortality Grant Program will be used to remove 1,000 trees that have died or are dying from invasion of bark beetle and drought conditions. The trees we plan to remove are located on approximately 300 acres of open space that is owned and managed by the City. 83 acres of City open space are located in the State Responsibility Area (SRA). There are 60 homes immediately adjacent the treated area, but the 1,400 homes within the City limits and at least 10,000 homes outside of City limits could be affected or damaged by wildfire on these properties. Nevada City is a small city of 3,000 residents and is surrounded by county residents who are part of our community. This project will enhance and contribute to the City's ongoing effort to reduce fire fuel on the City's Open Space Parcels.

A. Project Description

This item is broken into project specific criteria depending on the type of project being proposed: planning, education and tree Removal. Please **only answer the one set of questions** in this section that pertain to your project.

Removal of Dead or Dying Tree Projects

1. Describe the geographic scope of the project, including an estimate of the number of dead/ dying trees that will be removed or specific activity in support of dead and dying tree removal.
2. Describe the goals, objectives, and expected outcomes of the project, this could include, but is not limited to number of homes treated, number of trees removed, or number miles of roads treated, etc.
3. Provide a clear rationale for how the proposed project will identify dead or dying trees that pose an threat to public health and safety.
4. Identify any additional assets at risk to wildfire and tree mortality that will benefit from the proposed project. These may include, but are not limited to, domestic and municipal water supplies, power lines, communication facilities and community centers, residences and neighborhoods.
5. Is the scale of the project appropriate to achieve the stated goals,

objectives and outcomes discussed in Item 2 above?

Fuel Reduction Projects

1. Describe the geographic scope of the project, including an estimate of the number of habitable structures in the SRA and the names of the general communities that will benefit.
2. Describe the goals, objectives, and expected outcomes of the project.
3. Provide a clear rationale for how the proposed project will reduce the risks associated with wildfire to habitable structures in the SRA.
4. Identify any additional assets at risk to wildfire that will benefit from the proposed project. These may include, but are not limited to, domestic and municipal water supplies, power lines, communication facilities and community centers.
5. Is the scale of the project appropriate to achieve the stated goals, objectives and outcomes discussed in Item 2 above?

Planning Projects

1. Describe the geographic scope of the project, including the communities that will benefit, and an estimate of the number of structures within the project area.
2. Describe how the project will assess the risks to residents and structures in the SRA and prioritize projects to reduce this risk over time.
3. Does the proposed plan add or build upon previous wildfire prevention planning efforts in the general project area?
4. Identify a diverse group of key stakeholders, including local, state, and federal officials where appropriate, to collaborate with during the planning process. Discuss how the project proponent plans to engage with these targeted stakeholders.
5. Describe the pathways for community involvement that will be incorporated in the planning process.

Education and Training Projects

1. Describe the specific message of the education program and how it relates to

reducing the risk of wildfire to owners of structures in the SRA.

2. Describe the target audience of the education program and how information will be distributed to this audience.
3. Will the education program raise the awareness of homeowner responsibilities of living in a fire prone environment?
4. Identify specific actions being advocated in the education material that are expected to increase the preparedness of residents and structures in the SRA for wildfire.
5. Describe the expected outcome of the education in terms of increased or changed public awareness about wildfire.

B. Relationship to Strategic Plans

Does the proposed project support the goals and objectives of the California Strategic Fire Plan, the local CAL FIRE Unit Fire Plan, a Community Wildfire Protection Plan (CWPP), County Fire Plan, or other long term planning document?

C. Degree of Risk

1. Discuss the location of the project in relation to areas of moderate, high, or very high fire hazard severity zone as identified by the latest Fire and Resource Assessment Program maps. Fire hazard severity zone maps by county can be accessed at:
http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones_maps.php
2. Describe the geographic proximity of the project to structures at risk to damage from wildfire in the SRA.
3. Describe the projects geographic location related to the latest tree mortality Aerial Detection Survey and Tree Mortality High Hazard Zones.

D. Community Support

1. Does the project include any matching funds from other funding sources or any in-kind contributions that are expected to extend the impact of the proposed project?
2. Describe any cooperating entities in the dead and dying tree removal along

with this project being part of a larger tree removal project (if applicable).

3. Describe plans for external communications during the life of the project to keep the effected community informed about the goals, objectives and progress of the project. Activities such as planned press releases, project signage, community meetings, and field tours are encouraged.
4. Describe any plans to maintain the project after the grant period has ended.
5. Does the proposed project work with other organizations or agencies to address fire hazard reduction at the landscape level?

E. Project Implementation

1. Discuss the anticipated timeline for the project. Make sure to take seasonal restrictions into account.
2. Verify the expected timeframes to complete the project will fall under the March 15, 2019 deadline.
3. Describe the milestones that will be used to measure the progress of the project.
4. Describe measurable outcomes (i.e. project deliverables) that will be used to measure the project's success.
5. If applicable, how will the requirements of the California Environmental Quality Act (CEQA) be met?

F. Administration

1. Describe any previous experience the project proponent has with similar projects. Include a list of recent past projects the proponent has successfully completed if applicable. Project proponents having no previous experience with similar projects should discuss any past experiences that may help show a capacity to successfully complete the project being proposed. This may include partnering with a more experienced organization that can provide project support.
2. Identify who will be responsible for tracking project expenses and maintaining project records in a manner that allows for a full audit trail of any awarded grant funds.
3. Describe partnering entities for the tree mortality work and existing projects

that this proposed grant will assist or compliment.

G. Budget

A detailed project budget should be provided in an Excel spreadsheet attached to this grant application. The space provided here is to allow for a narrative description to further explain the proposed budget.

1. Explain how the grant funds, if awarded, will be spent to support the goals and objectives of the project. If equipment grant funds are requested, explain how the equipment will be utilized and maintained beyond the life of the grant.
2. Are the costs for each proposed activity reasonable for the geographic area where they are to be performed? Identify any costs that are higher than usual and explain any special circumstances within the project that makes these increased costs necessary to achieve the goals and objectives of the project.
3. Is the total project cost appropriate for the size, scope, and anticipated benefit of the project?
4. Identify any administrative expenses and describe why they are necessary for successful project implementation. Administrative expenses to be paid must be less than 12% of the total grant request.

A. Project Description Response

1. The City of Nevada City is located in the foothills of the Sierra Nevada Mountains at 2,500 feet in elevation. The City owns and manages approximately 300 acres of open space and park land. These areas include properties located within City limits, along property lines adjacent to County residents who reside in the SRA and 83 acres are located in the SRA. These Open Space parcels include in this project are as follows:

The Old Airport - 120 acres

Hirschman's Pond - 88 acres (47 of these acres are in the SRA)

Sugarloaf Mountain - 36 acres (located in the SRA)

The Environs - 40 acres

Sugarloaf Mountain - as its name suggests - is a hill with most of the property having slopes at 60%. The Environs is along the Deer Creek Canyon. The parcel is hilly and slopes down to the creek. Hirschman's Pond property includes a 12 acre pond. The parcel is like much of the terrain in the area, hilly and sloping with a non-natural landscape due to historical mining activities. These properties provide a green backdrop for the City and recreational opportunities for our residents, community and visitors. All of these properties have recreational trails used by our residents and visitors. The City has estimated that there are 1,000 dead and dying trees that need to be removed to avoid wildfire, improve forest health and protect neighboring homes. Removal of dead and dying trees is the full scope of this proposed project. Other fire clearing and preventative projects have been completed and are planned to continue support the efforts and goals of this project.

2. The City's goals (not in priority order) are as follows:

a. Maintain our open space parcels so that trails and recreational facilities are safe for our residents and visitors.

b. Protect our downtown historical district, business district and residential neighborhoods. Nevada City is a historical mining town. The downtown area of the City is listed on the National Register of Historical Places. If the open space parcels were to succumb to wildfire, this would greatly threaten our downtown. The City is only 2 square miles and neighborhoods would certainly be impacted by a wildfire that starts on City open space parcels.

c. The City makes it a priority to be good neighbors to those who own property adjacent to City open space parcels. We accomplish this by listening to neighbor concerns, removing garbage on these parcels, and completing scotch broom removal and fire clearing projects as we are able. We are a small city with a Public Works Department that consists of only 6 employees. These 6 employees are not only responsible for maintenance of parks and open space, but also maintain water and sewer lines, streets and City buildings. Although the City manages human and financial resources well, the extent of the problem created by dead and dying trees has grown significantly beyond the financial and staff capacity of our small City to address. We are excited about the possibility of funding to assist with our "good neighbor" policy - especially in keeping our neighbors safe from fire danger.

To reduce the threat to public health and safety, the City proposes the following project. Our Tree Mortality Grant Funded Project would assist in the removal of 575 dead and dying trees. If these trees are removed there is the potential to save more than 60 homes that are immediately adjacent to City property and because our City streets are narrow, we could be saving many more homes as well. The trees being removed will protect 10 miles of recreational trails and bridges that are heavily used. This includes a driveway that serves as the maintenance road to the top of Sugarloaf Mountain. This project will treat 3 miles of roadway. One-half mile of road being treated is the only access for the 30 homes surrounding the Old Airport property. This is the only access for homeowners and emergency vehicles to get in and out of the neighborhood. The Hirschman's Pond property is adjacent to 2 miles of Highway 20 just outside the west side of City limits.

3. The process used to identify dead and dying trees has been ongoing. In many cases neighbors have notified the City of trees that they have concerns about. These trees have been inspected by

our Public Works Superintendent. If he determines that the trees are a risk to homes, roads or trails, he hires an arborist to inspect the trees and remove them as needed and as we are able. For the purposes of this grant application, the Public Works Superintendent visited each of the sites to determine the number of trees to be removed and the Parks & Recreation Supervisor walked many of the properties with a Licensed Timber Operator to access the number of trees and the degree of the problem. Prior to commencing work, the City may also work with the Fire Safe Council or a Registered Professional Forester to confirm the trees that are dead and dying.

4. The Environs property surrounds the City's Waste Water Treatment Plant. This parcel was cleared of understory brush with funding from the Federal Emergency Management Agency (FEMA). In addition 20 trees were taken down by PGE because they were dead and near power lines. 18 dead and dying trees remain on the property. In addition, this parcel is within 1,500 feet of 2 public schools. As mentioned previously each of the parcels owned by the City are adjacent to neighborhoods. The Hirschman's Pond Property, an 88 acre open space parcel, has power lines that run through the property. These power lines could be protected by removing the dead and dying trees identified within this space. There are 60 homes within 300 feet of the trees that the City intends to remove. However, many more homes could be affected by wildfire.

5. The scale of the proposed project is achievable if funding the full requested amount. These goals are an ongoing effort by the City to be good stewards of the land that we own and manage. This project will assist the City in our regular efforts to remove unsafe conditions and protect City and neighboring properties.

B. Relationship to Strategic Plans Response

This project and our routine maintenance process is in line with Goal #1 of the California Strategic Fire Plan to "Identify and evaluate wildland fire hazards and recognize life, property and natural resource assets at risk,". When the City becomes aware of dead or dying trees, when making a decision about how to remove those trees, priority is always given to those trees that pose a threat to homes, roads or public facilities. This project also supports the goals of the Nevada County Office of Emergency Services Multi-Hazard Mitigation Plan. This plan has an objective to "Reduce fire severity and intensity through fuels management." The City recognizes that the removal of dead and dying trees is just one step to assist with fuels management. The City worked cooperatively with a local non-profit organization, Sierra Streams Institute (SSI) to develop a Land Management Plan for the Hirschman's Pond Property. This plan was researched and developed to strategically remove brush for wildfire defense while also maintaining wildlife habitat. The Plan is scheduled to be implemented this winter for initial clearing and provides direction for managing the property into the future. This plan does not place any limitations on removal of dead or dying trees, but enhances what the City is attempting to accomplish through the Nevada City Tree Mortality Program.

In addition to these formal Fire Plans, the City is involved in other practices & partnerships that are in line with the mission to protect homes and public safety.

a. The County of Nevada has issued a Disaster Declaration to address the challenges we face with the rapid increase in the amount of trees that are dying from bark beetle and drought conditions. They have recently created a working group to address the issue of dead and dying trees and to find ways for organizations and individuals to work together to protect property and lives. The City's Fire Chief will be an active member of that working group. Also, Grass Valley is our closest neighboring City, has issued a Disaster Declaration to raise awareness of the condition of our forests and address these challenges.

b. The neighborhoods that surround City open space parcels have become Fire Wise Communities. They have worked together to protect their homes and property. The City can now join forces in a more proactive way by removing many dead and dying trees that threaten their homes and the work they have completed.

c. The City continually partners with local non-profit organizations to have Scotch Broom Challenges on City open space parcels. We also contract with the Cal Fire Washington Ridge Crews to complete fire clearing projects on many City properties.

C. Degree of Risk Response

1. According to the Fire and Resource Assessment Program Maps, the entire area of Nevada City city limits is designated as a Very High Fire Hazard Severity Zone and approximately 98% of the properties surrounding City limits also carry this same Very High Fire Hazard Severity Zone designation. There are two Fire Wise Communities located in the SRA that border on three of the City's four open space parcels. These Fire Wise Communities include the Greater Cement Hill Neighborhood Association and the Greater Champion Mine Neighborhood Association. These communities have worked hard to meet the requirements of a Fire Wise Community. The City is determined to meet the expectations of these neighborhoods by maintaining our properties in a way that assists in the protection of their homes.

2. Each of the open space parcels where the City would like to remove dead and dying trees are adjacent to neighborhoods and residential homes. We estimate that 60 homes are immediately adjacent to the properties we intend to remove these trees from, most of those are in the SRA. Although not located in the SRA, as mentioned previously, The Environs parcel surrounds the City's Waste Water Treatment Plant and is within 1,500 feet of two public schools.

3. Nevada City is located in the County of Nevada. Nevada County borders the High Priority Counties on the north end. According to the current Drought Related Tree Mortality Map, Nevada City does not appear to be in a High Hazard Zone. We believe that when the map is updated, it will become evident that we are in a High Hazard Zone. The adjacent City of Grass Valley and the County of Nevada have issued Disaster Declarations.

D. Community Support Response

1. Sierra Streams Institute (SSI) has received funding from the Sierra Nevada Conservancy to complete fire clearing activities on the Hirschman's Pond property. This project will begin during the upcoming winter. There is a 2.5 mile trail located on the property and the emphasis of this fire clearing will be along that trail. Efforts to protect homes, structures, roads and trails has been ongoing and has included more than just removal of dead and dying trees. Nevada City was awarded funding through the Hazard Mitigation Grant Program from the Federal Emergency Management Agency (FEMA). This grant funding allowed the City, in cooperation with the Fire Safe Council of Nevada County and SSI, to clear The Environs property of understory brush during the winter and spring of 2016. The City also included a line item in this year's budget to remove dead and dying trees on City open space parcels. Those funds have already been used to take down trees along trails and roads.

2. The County of Nevada has issued a Disaster Declaration due to high tree mortality. They are working with the Fire Safe Council of Nevada County to assemble a working group. The goal of the working group is to cooperate with all local agencies to develop a Tree Removal Plan. Our City Fire Chief will be actively involved in that working group.

3. The City always makes an effort to keep our residents and neighbors informed of important activities that are happening in the City. We routinely work with non-profit organizations to build trails and provide recreational opportunities and work with neighborhood associations to assist with

maintenance of open space parcels and the community at large. Press releases and signage will be extremely important during any tree falling projects to ensure that the public knows when trails are closed, logging activities are taking place and any street closures are needed to complete the work. Our communication channels are the City's bi-monthly newsletter, press releases to local newspaper, radio and online media. Although we have not planned tours of the project locations or community meetings, City staff will keep the City Council and residents informed of activities during regularly scheduled Council meetings. If it becomes necessary to meet with neighbors, those community meetings will be scheduled appropriately. The City finds that it is always helpful to meet with the public, so they understand the work that is being completed, the reasoning behind it and allow the public time for input.

4. City staff intend to keep a budget line item specifically for dead and dying trees on open space parcels. This funding will assist in continued efforts to maintain healthy forests. The City will also continue to cooperate with local non-profits to provide Scotch Broom Challenges to remove this very invasive, non-native plant. The City has an agreement with the Bear Yuba Land Trust to maintain trails that are on City properties. The Land Trust organizes a trail adoption program which provides funding and volunteers to not only maintain the trails on our open space parcels, but includes clearing if trail areas become over-grown.

5. The City is applying for a Tree Mortality Grant Application. With that in mind, we have not partnered with any non-profits to address fire hazard reduction at the landscape level for this project. However, as mentioned above, the City routinely partners with local non-profit agencies to accomplish projects such as fire clearing, brush removal and scotch broom challenges.

E. Project Implementation Response

1. The city plans to begin removal of dead and dying trees as soon as funding is awarded and available in the Spring 2017. A basic time line is as follows:

- a. CEQA documentation completed
- b. Resolution approved by City Council
- c. Bid package for contractual work made available
- d. Removal of dead and dying trees

The City plans to begin work at the Old Airport property because this is where the largest stand of dead and dying trees is located. This property is also the anticipated location for our Green Waste Drop Off Site, which will be completed in cooperation with the Fire Safe Council. The sequence of property work will depend on weather and ground conditions. The City will also need to notice the public prior to work on each property, so residents and visitors are aware when trails and open space areas are closed for tree removal.

2. The City has no hesitation in confirming that the proposed project will be completed by the March 2019 deadline. We will fall trees and clear debris in a timely manner.

3. This project will be phased by taking care of one open space parcel at a time. The City will begin with the area that most impacts structures in the State Responsibility Area. As mentioned previously, we plan to start with the Old Airport because it is the property with the greatest tree mortality. All of the City open space parcels are adjacent to residential communities and input from the contractor and Fire Safe Council will confirm a strategy for determining the properties that are most in need of attention and will be carefully considered.

4. The City has anticipated that 20% of trees that currently appear to be healthy may need to be

removed by the time we are able to implement this project. The City will track the number of trees (dead, dying and unhealthy) as we progress through this project.

5. All CEQA documentation will be processed by the City Planner. The City Planner will review the project and provide the appropriate CEQA documentation within the one year time frame allowed by the grant.

F. Administration Response

1. The City's Fire Chief and Public Works Superintendent have completed similar projects and are qualified to complete the proposed project if awarded funding. As mentioned previously, the City recently completed a fire clearing project on The Environs property and many dead trees have already been removed. Both the Fire Chief and Public Works Superintendent have been involved in those projects. The City has also included a line item in the Grant Budget to partner with the Fire Safe Council for input and recommendations to ensure that all best practices are being met. The City has also received many state and federal grants for projects that vary from trail construction to water system replacement and is able to comply with all grant requirements for invoicing, reporting and auditing.

2. The Assistant City Manager/Finance Manager will be responsible for tracking project expenses and maintaining project records. The Assistant City Manager/Finance Manager will work with appropriate staff members to ensure that the project is being completed as planned, reports are completed in a timely manner and maintaining accurate records for audit purposes.

3. We have included a budget line item for contractual work with the Fire Safe Council of Nevada County. The staff at the Fire Safe Council are extremely knowledgeable and have been a helpful and supportive entity for the City in past projects. As mentioned previously, this proposed project will assist and compliment the fire fuel reduction projects that have already taken place or are scheduled for these City Properties. Those projects include - fire fuel reduction on The Environs property, Land Management Plan implementation on the Hirschman's Pond property and ongoing City efforts for tree removal and brush clearing.

G. Budget Response

1. The majority of grant funds will be utilized for the actual falling and removal of dead and dying trees. This meets the City's goals of keeping our open space parcels safe and protecting homes and our downtown area. City staff time will be needed to manage the project and accomplish this goal. Staff salaries have been included in the budget. The City does intend to purchase a chipper to be used throughout the project and expects a 20 year lifespan on the equipment. The chipper will be used during the project to chip branches of the trees that are removed on the smaller parcels where access is more challenging and to clear brush in assisting with access to the dead and dying trees. The chipper will continue to be used by the City after the life of the grant when trimming trees along roadways and continued fire clearing efforts on open space parcels. The city has a no burn ordinance that does not allow burning within City limits due to the community's extreme fire risk. The chipper will be of assistance in managing branches and natural debris that cannot be burned. The cost of the chipper was determined by soliciting several quotes for similar pieces of equipment. The cost included in the proposed budget includes the direct cost of the equipment as well as supplies needed to begin operation.

2. The hilly and sloped terrain of some of the City's open space parcels could increase costs of tree

removal due to the challenge of accessing those trees as compared to flatter, more easily accessible locations. However, these costs are reasonable for our geographic location.

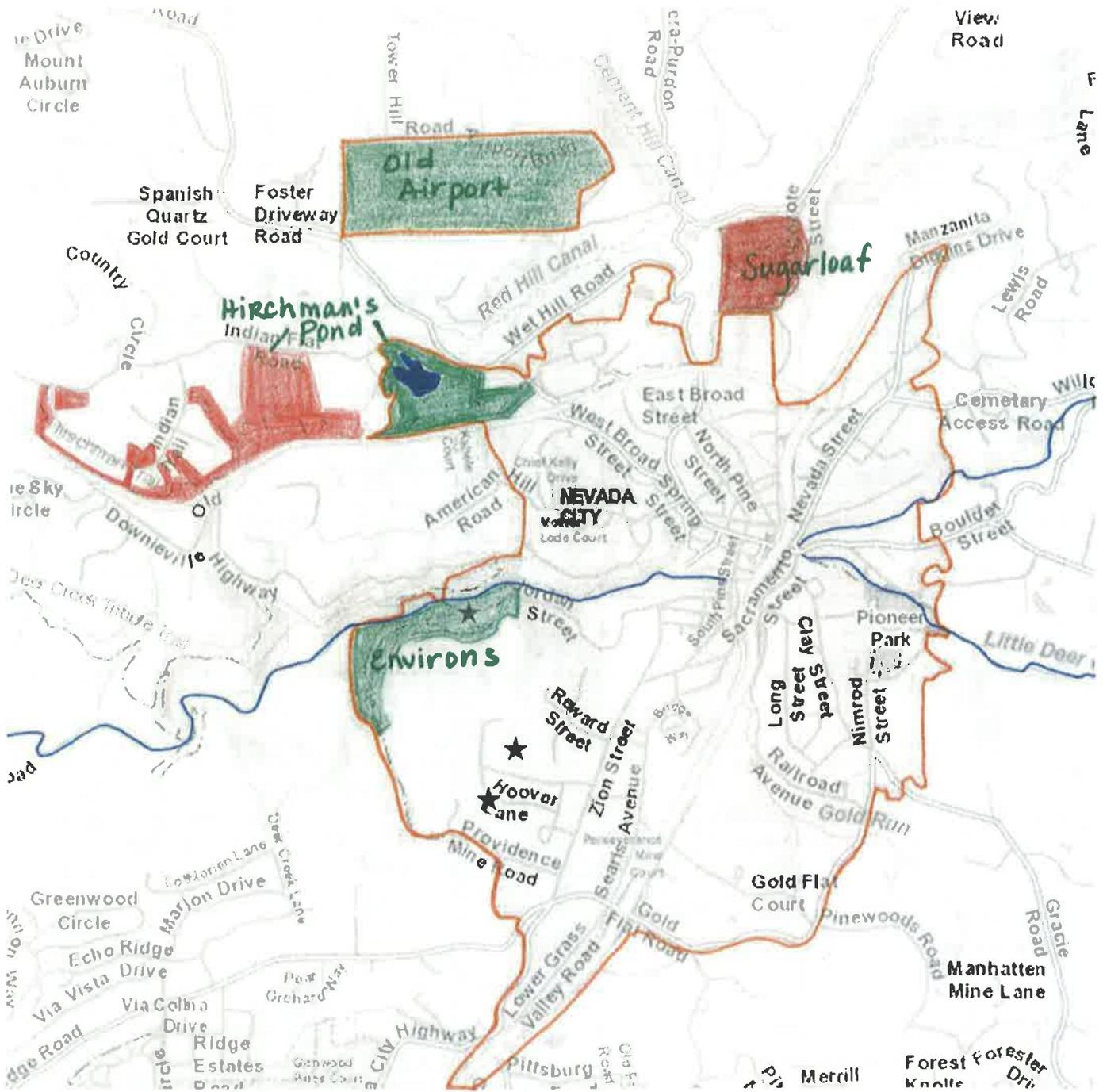
3. If funded the full grant request, the scope of work presented throughout this application will be completed. It may seem that working on several different properties would be cost prohibitive, but those properties are all within 2 miles of each other, therefore allowing these project costs to be appropriate for the scope that we have planned.

4. Administrative expenses included in the grant are for the Finance Department and the Parks & Recreation Supervisor. The Finance Department will process the grant invoices and reports as required. This is necessary to insure that all grant obligations are completed in a timely manner and grant rules are followed. The Parks & Recreation Supervisor will coordinate with the Public Works Superintendent and Fire Chief to confirm that grant objectives, time lines and processes are being followed, oversee communications with the public, assist in posting signs and assist the Finance Department with completion of reports.

Project Budget

Project Name: Nevada City Tree Mortality

Budget Category	Item Description	Cost Basis			Cost Share (%)			Funding Source (\$)			Total (\$)
		Quantity	Units	Cost/Unit	Grant	Grantee	Partner	Grant	Grantee	Partner(s)	
A. Salaries and Wages											
	Public Works Superintendent	60	Hours	\$ 39	100%	0%	0%	\$ 2,340	\$ -	\$ -	\$ 2,340
	Fire Chief	40	Hours	\$ 48	100%	0%	0%	\$ 1,920	\$ -	\$ -	\$ 1,920
	Public Works Employees	40	Hours	\$ 22	100%	0%	0%	\$ 880	\$ -	\$ -	\$ 880
	Administration (12% of grant requ	1		\$ 24,000	100%	0%	0%	\$ 24,000	\$ -	\$ -	\$ 24,000
		0	Hours	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Hours	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Hours	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Hours	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
	Sub-Total Salaries and Wages:							\$ 29,140	\$ -	\$ -	\$ 29,140
B. Employee Benefits											
	Public Works Superintendent	60	Hours	\$ 20	100%	0%	0%	\$ 1,200	\$ -	\$ -	\$ 1,200
	Fire Chief	40	Hours	\$ 29	100%	0%	0%	\$ 1,160	\$ -	\$ -	\$ 1,160
	Public Works Employees	40	Hours	\$ 21	100%	0%	0%	\$ 840	\$ -	\$ -	\$ 840
		0	Days	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Hours	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Hours	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Hours	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Hours	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
	Sub-Total Employee Benefits:							\$ 3,200	\$ -	\$ -	\$ 3,200
C. Contractual											
	Tree Falling and Removal	1		\$ 110,316	100%	0%	0%	\$ 110,316	\$ -	\$ -	\$ 110,316
	Fire Safe Council/Registered Fores	10	Days	\$ 600	100%	0%	0%	\$ 6,000	\$ -	\$ -	\$ 6,000
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Acres	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Miles	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
	Sub-Total Contractual:							\$ 116,316	\$ -	\$ -	\$ 116,316
D. Travel & Per Diem:											
	mileage	80	Miles	\$ 1	100%	0%	0%	\$ 44	\$ -	\$ -	\$ 44
		0	Days	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Days	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Days	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
	Sub-Total Travel & Per Diem:							\$ 44	\$ -	\$ -	\$ 44
E. Supplies											
	Chain Saw	1	Each	\$ 600	100%	0%	0%	\$ 600	\$ -	\$ -	\$ 600
	Signs	40	Each	\$ 5	100%	0%	0%	\$ 200	\$ -	\$ -	\$ 200
	Misc	1	Each	\$ 500	100%	0%	0%	\$ 500	\$ -	\$ -	\$ 500
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
	Sub-Total Supplies:							\$ 1,300	\$ -	\$ -	\$ 1,300
F. Equipment											
	Chipper	1	Each	\$ 50,000	100%	0%	0%	\$ 50,000	\$ -	\$ -	\$ 50,000
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
	Sub-Total Equipment:							\$ 50,000	\$ -	\$ -	\$ 50,000
G. Other Costs											
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
		0	Each	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	\$ -
	Sub-Total Other Costs							\$ -	\$ -	\$ -	\$ -
Total Direct Costs								\$ 200,000	\$ -	\$ -	\$ 200,000
Indirect Costs								0%	\$ -	\$ -	\$ -
Total Project Costs								\$ 200,000	\$ -	\$ -	\$ 200,000
Less Program Income								\$ -	\$ -	\$ -	\$ -
Total Grant Proposed Costs								\$ 200,000	\$ -	\$ -	\$ 200,000



- Project Properties in LRA - Tree Mortality
- Project Properties in SRA - Tree Mortality
- Water Courses
- City Limits
- Public Facilities: Water Treatment Plant & Schools

Project Tracking #: 16-NEW-0049

Project Name: Nevada City Tree Mortality

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

JANUARY 11, 2017

TITLE: Compliance with the California Environmental Quality Act (CEQA) for the Little Deer Creek Restoration and Floodplain Mitigation Project

RECOMMENDATION:

1. Pass Resolution 2017-XX adopting the Mitigated Negative Declaration (MND) prepared by Stantec, and Sierra Streams Institute in compliance with CEQA.

CONTACT: Amy Wolfson, City Planner

BACKGROUND / DISCUSSION:

At the December 10, 2014 City Council meeting the Council passed Resolution 2014-52, Authorizing Sierra Streams Institute (SSI) to complete an application for the Urban Streams Restoration Program Grant offered by the California Department of Water Resources. The purpose of the proposed Project is to restore Little Deer Creek and provide a more stable and natural condition (e.g., flows, floodplain, and riparian) as it moves through Pioneer Park. SSI submitted the application on behalf of the City and in February 2016, the City was awarded funding for this project in the amount of \$458,208. An update on the progress of this project was presented to City Council at the December 14, 2016 City Council meeting.

PROJECT DESCRIPTION:

The proposed restoration and associated improvements include removal of the concrete channel lining, streambank restoration, regrading of the Lower Field, a new "Roll and Stroll" trail, and drainage improvements associated with Little Deer Creek within Pioneer Park. Design and construction of the proposed improvements will be performed in general accordance with Low Impact Development (LDI) principles (i.e., natural storm water management) intended to improve and protect water quality. Specific information regarding the proposed Little Deer Creek restoration and Pioneer Park improvements are discussed henceforth. A more comprehensive project description can be reviewed in Section 1 of the proposed CEQA Initial Study/Mitigated Negative Declaration, attached as Exhibit A.

PUBLIC NOTICING:

Notice was sent to the local paper on November 12, 2016 advising the public of the availability of the environmental document. The public commenting period for this initial study and proposed Mitigated Negative Declaration was open from November 12, 2016 through 5:00p.m. on December 13, 2016. During this time period, the proposed mitigated negative declaration was also available for review on the City's website. Staff has continued to make this document available on the website through the date of final adoption. As of the writing of this staff report, there have been no public comments submitted.

STATE CLEARING HOUSE:

In compliance with CEQA Guidelines Section 15205, one copy of the Notice of Completion, 15 summary forms, and 15 CDs of the Public Draft IS/MND was hand-delivered to the State Clearinghouse on Thursday November 10, 2016. This agency coordinates state-level review of CEQA documents and distributes them to State agencies for review and comment. Staff received only one comment letter from the California

Central Valley Regional Water Quality Control Board (CVRWQCB) advising of their regulatory authority and the appropriate permitting requirements through their agency. Staff has included this letter as Exhibit C of this staff report and recommends that it be included as Appendix D of the proposed IS/MND.

AB 52- TRIBAL CONSULTATION:

California Assembly Bill, AB52, amended CEQA Guideline regulations to include consideration of impacts to tribal cultural resources. AB 52 establishes a formal role for tribes in the CEQA process. CEQA lead agencies are required to consult with tribes about potential tribal cultural resources in the project area, the potential significance of project impacts, the development of project alternatives, and the type of environmental document that should be prepared.

In compliance with the consultation requirement prescribed by AB52, staff submitted a formal “Sacred Lands File and Native American Contacts List Request” to the Native American Heritage Commission (NAHC) on Friday, August 12, 2016. The NAHC responded with four tribal contacts including two from the Tsi-Akim Maidu tribe, one from the United Auburn Indian Community (UAIC) of the Auburn Rancheria, and one from the Washoe Tribe of Nevada and California. Additionally, staff contacted Shelley Covert of the Nisenan tribal group who has been asked to be kept apprised of the results of any tribal record searches or monitoring efforts during the course of the project.

Staff duly prepared letters requesting formal consultation with these tribal agencies. As a result of this consultation process staff met onsite with Marcos Guerrero, representing the UAIC tribal group. During that site visit on November 17, 2016. Mr. Guerrero noted potential cultural resources outside of the area scope of work, but within the vicinity of the project area. This observation prompted staff to request a records search of the UAIC tribal database on November 21, 2016. Staff followed up with two reminders to respond to this request on December 14th and again on January 3rd. As of the writing of this staff report, staff has not received a response to this request. While no specific cultural resources have been identified by the UAIC to date, the City is committed to working with the UAIC to avoid impacts to cultural resources within the proposed project.

DOCUMENT PREPARATION:

As the Lead Agency under the California Environmental Quality Act (CEQA), Nevada City is responsible for compliance with the environmental review process prescribed by the CEQA guidelines. This study focuses on the environmental issues identified as possibly significant in the CEQA checklist and by CEQA guidelines. A complete Project Description is included in Section 1.0 of the proposed IS/MND. All areas of concern relevant to the proposed Project are analyzed in Section 3.0 and references are included in Section 4.0. Data and general information for the biological sections were drawn from institutional knowledge at Sierra Streams Institute (SSI). In addition, reconnaissance-level site-specific baseline biological field surveys and a formal wetland delineation were performed by a SSI Restoration Ecologist/Botanist and Wildlife Biologist on May 2, June 15, and July 10, 2016. Intensive-level pedestrian cultural resource surveys were conducted by a Stantec archeologist on June 23 and September 4, 2016.

Stantec Consulting Services Inc. has prepared an Initial Study on behalf of the City to document the potential impacts of the proposed creek restoration and floodplain management project. The proposed mitigated negative declaration considers protection of oaks, migratory birds, fish and wildlife impacts, and the expected downstream effects on water quality. Also considered are the potential short-term construction-related impacts to water quality along with construction-related noise impacts. Staff has highlighted some of the impacts and their respective mitigation measures in the summary below. A full

discussion can be reviewed directly in the proposed Initial Study/MND, attached as Exhibit A.

SUMMARY ANALYSIS OF IMPACTS:

Air Quality (Section 3.3)

In order to limit dust emissions during the construction phase of the project, the selected contractor will be responsible for the preparation and implement a Project Dust and Emissions Control Plan that is approved by the NSAQMD prior to construction. The following shall be conducted throughout the construction period to limit and control dust and air emissions to (Mitigation Measure AIR-2). As guided by the California Emissions Estimate model (CalEEMod), the project contractor will also be required to implement Best Management Practices and operate under clean construction equipment strategies to reduce emissions of construction equipment.

Biological (Section 3.4) and Hydrology and Water Quality (Section 3.9)

Wildlife /Water Quality Protection: Staff has determined that the proposed Project will result in long-term *benefits* to special-status and non-special-status plant and wildlife species, as well as wetland and riparian habitat. However, some short-term impacts related to construction disturbance and removal of mature vegetation have the potential to adversely impact wildlife and their habitat in the near-term. Mitigation Measures BIO-1 and HYD-A through D are intended to address these short-term impacts and mitigate them to a less than significant level. Mitigation Measures include various strategies to either avoid, minimize, or restore the biological health and water quality of the project area. These strategies include avoiding disturbance during sensitive life cycle periods, initiating Best Management Practices, preventing sensitive species from entering the active construction zone, and continuous water quality monitoring during construction.

Tree/Vegetation Protection: Native trees and vegetation will be avoided and/or salvaged to the extent possible. Upon completion of grading at the Project site, impacted or removed riparian trees and shrubs with a ten-inch DBH or greater will be replanted at a 3:1 mitigation ratio planted along the restored floodplain. Native perennial plants and shrubs will also be planted for slope protection and wildlife habitat. (Mitigation Measure BIO-2)

Cultural Resources (Section 3.5)

The circulated IS/MND currently includes mitigation that requires the halting of construction and consultation with a qualified professional in the event that cultural resources, paleontological resources or human remains are encountered during the course of construction (Mitigation Measures CUL 1 and 2).

As part of their review of the proposed IS/MND, the UAIC is requesting that the language of these Mitigation Measures be significantly revised. Among the requested revisions is language that requires the City to pay for a tribal monitor for the duration of all excavation activity. Staff has determined that this particular requirement would be cost prohibitive in terms of the grant awarded to fund the project.

Staff also believes the request for continuous monitoring is excessive because based on the Sierra Streams Institute's site characterization report, reported site history, soil sampling observations, and the most recent project design plans, all areas of proposed excavation have been previously disturbed and all anticipated excavation material is imported fill or placer mine debris. Staff does not anticipate any excavation will extend into undisturbed native soil. Staff therefore recommends that the requested language be adopted, with a modification to the requirement for continuous monitoring. Exhibit D

includes the UAIC revised mitigation measures CUL 1, CUL 2, and CUL 3 and includes the “tracked changes” revisions proposed by staff.

Hazards and Hazardous Materials (Section 3.8)

HANDLING ARSENIC CONTAMINATED SOILS: The project scope includes the removal of fill soils contaminated with arsenic that were previously used to regrade the lower field and relocate Little Deer Creek. Excavation of contaminated soils could pose a potential risk to workers on-site or receptors located near the site through inhalation of airborne dust. Mitigation Measure AIR-1 includes dust control measures to minimize fugitive dust and related contaminant dispersal. In addition, a transportation plan will be developed for the Project and will serve to specify appropriate procedures, methods, and equipment for controlling emissions during loading, transport, and unloading of excavated soils.

Noise (Section 3.12)

Construction activities of the proposed Project will result in temporary increases in noise above existing levels. Construction activities are temporary (estimated at 60 calendar days for phase 1, 60 days for phase 2, and 30 to 60 days for phase 3) and would only occur between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and possibly Saturdays as described in Mitigation Measure NOISE-1.

CEQA RECOMMENDATION: With proper implementation of all proposed mitigation measures the proposed project is not anticipated to degrade the quality of the environment or substantially reduce the habitat of fish and wildlife species. The long-term impact of the creek restoration project will be improved biological diversity and habitat value. All potentially significant impacts have been mitigated to a less than significant level and staff recommends that City Council pass RESOLUTION NO. 2017-XX, and adopt the attached Mitigated Negative Declaration with staff’s updated Mitigation language for Mitigation Measures CUL 1 through CUL3 as provided in Exhibit C.

FINANCIAL CONSIDERATIONS: In February 2016, the City was awarded funding for this project in the amount of \$458,208. The total project costs for the Creek Restoration Project is \$612,582, leaving the City’s financial commitment at \$154,374 to be allocated for preparation of the drainage study, and re-sodding and sprinkler installation during phase 2 of the project.

The California Department of Fish and Wildlife (CDFW) imposes and collects a filing fee to defray the costs of managing and protecting California’s vast fish and wildlife resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, and developing monitoring programs. The current CEQA document filing fee for a Mitigated Negative Declaration is \$2,216.25

ATTACHMENTS:

Exhibit A – Proposed Initial Study/Mitigated Negative Deceleration

Exhibit B – Resolution 2017-XX and Notice of Determination

Exhibit C – Letter from CA CVWQCB dated December 2, 2016

Exhibit D – Suggested modified language for Mitigation Measures CUL1, CUL2, & CUL 3

Little Deer Creek Restoration and Flood Mitigation Project

CEQA Initial Study / Mitigated
Negative Declaration



Prepared for:
City of Nevada City

Prepared by:
Stantec Consulting Services Inc. &
Sierra Streams Institute

November 7, 2016

Sign-off Sheet

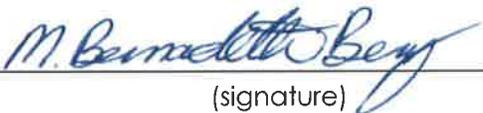
This document entitled Little Deer Creek Restoration and Flood Mitigation Project was prepared by Stantec Consulting Services Inc. ("Stantec") and Sierra Streams Institute for the account of City of Nevada City (the "Client"). Any reliance on this document by any third party is strictly prohibited. The material in it reflects Stantec's professional judgment in light of the scope, schedule and other limitations stated in the document and in the contract between Stantec and the Client. The opinions in the document are based on conditions and information existing at the time the document was published and do not take into account any subsequent changes. In preparing the document, Stantec did not verify information supplied to it by others. Any use which a third party makes of this document is the responsibility of such third party. Such third party agrees that Stantec shall not be responsible for costs or damages of any kind, if any, suffered by it or any other third party as a result of decisions made or actions taken based on this document.

Preparation lead by 
(signature)

Morgan Kennedy, Biologist/Regulatory Specialist

And by 
(signature)

Kyle Leach, Project Geologist, Sierra Stream Institute

And by 
(signature)

Bernadette Bezy, Principal Aquatic Biologist/Environmental Compliance Manager

Table of Contents

1.0	PROJECT DESCRIPTION	1.1
1.1	BACKGROUND	1.1
1.2	PROJECT LOCATION.....	1.2
1.3	PURPOSE AND NEED.....	1.5
1.4	PROPOSED IMPROVEMENTS	1.5
	1.4.1 Stream Improvements.....	1.6
	1.4.2 Field Improvements.....	1.6
	1.4.3 Trail Improvements	1.6
1.5	PROJECT PHASING.....	1.7
1.6	PROJECT CONSTRUCTION	1.7
	1.6.1 Stream Construction	1.8
	1.6.2 Field Construction.....	1.9
	1.6.3 Trail Construction	1.10
	1.6.4 Access, Mobilization and Staging.....	1.11
	1.6.5 Project Schedule	1.12
1.7	CEQA PROCESS	1.13
1.8	SCOPE OF THIS STUDY	1.13
2.0	ENVIRONMENTAL CHECKLIST FORM AND ANALYSIS.....	2.14
3.0	ENVIRONMENTAL IMPACTS	3.16
3.1	AESTHETICS.....	3.16
	3.1.1 Regulatory Setting	3.16
	3.1.2 Environmental Setting	3.17
	3.1.3 Impact Analysis.....	3.18
3.2	AGRICULTURAL RESOURCES	3.20
	3.2.1 Regulatory Setting	3.20
	3.2.2 Environmental Setting	3.21
	3.2.3 Impact Analysis.....	3.22
3.3	AIR QUALITY	3.24
	3.3.1 Regulatory Setting	3.24
	3.3.2 Environmental Setting	3.27
	3.3.3 Impact Analysis.....	3.28
	3.3.4 Mitigation.....	3.35
3.4	BIOLOGICAL RESOURCES	3.38
	3.4.1 Regulatory Setting	3.38
	3.4.2 Environmental Setting	3.44
	3.4.3 Impact Analysis.....	3.83
	3.4.4 Mitigation.....	3.90
3.5	CULTURAL RESOURCES	3.93
	3.5.1 Regulatory Setting	3.93
	3.5.2 Environmental Setting	3.99
	3.5.3 Impact Analysis.....	3.108

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

3.5.4	Mitigation.....	3.112
3.6	GEOLOGY AND SOILS	3.115
3.6.1	Regulatory Setting	3.115
3.6.2	Environmental Setting	3.116
3.6.3	Impact Analysis.....	3.119
3.6.4	Mitigation.....	3.122
3.8	HAZARDS AND HAZARDOUS MATERIALS	3.131
3.8.1	Regulatory Setting	3.131
3.8.2	Environmental Setting	3.133
3.8.3	Impact Analysis.....	3.134
3.8.4	Mitigation.....	3.139
3.9	HYDROLOGY AND WATER QUALITY	3.142
3.9.1	Regulatory Setting	3.142
3.9.2	Environmental Setting	3.145
3.9.3	Impact Analysis.....	3.148
3.9.4	Mitigation.....	3.155
3.10	LAND USE PLANNING.....	3.159
3.10.1	Regulatory Settings.....	3.159
3.10.2	Environmental Setting	3.161
3.10.3	Impact Analysis.....	3.162
3.11	MINERAL RESOURCES	3.164
3.11.1	Regulatory Setting	3.164
3.11.2	Environmental Setting	3.164
3.11.3	Impact Analysis.....	3.165
3.12	NOISE.....	3.166
3.12.1	Regulatory Setting	3.170
3.12.2	Environmental Setting	3.172
3.12.3	Impact Analysis.....	3.173
3.12.4	Mitigation.....	3.178
3.13	POPULATION AND HOUSING	3.180
3.13.1	Regulatory Setting	3.180
3.13.2	Environmental Setting	3.181
3.13.3	Impact Analysis.....	3.181
3.14	PUBLIC SERVICES	3.183
3.14.1	Regulatory Setting	3.183
3.14.2	Environmental Setting	3.183
3.14.3	Impact Analysis.....	3.185
3.15	RECREATION	3.187
3.15.1	Regulatory Setting	3.187
3.15.2	Environmental Setting	3.189
3.15.3	Impact Analysis.....	3.189
3.16	TRANSPORTATION AND TRAFFIC	3.192
3.16.1	Regulatory Setting	3.192
3.16.2	Environmental Setting	3.195

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

3.16.3 Impact Analysis..... 3.196

3.17 UTILITIES AND SERVICE SYSTEMS 3.200

3.17.1 Regulatory Setting 3.200

3.17.2 Environmental Setting 3.200

3.17.3 Impact Analysis..... 3.201

3.18 MANDATORY FINDINGS OF SIGNIFICANCE 3.204

3.18.1 Impact Analysis..... 3.204

4.0 REFERENCES.....4.208

LIST OF TABLES

Table 1.1-1 Overview of Project Construction 1.12

Table 3.1-1 CEQA Checklist for Assessing Project-Specific Potential Impacts
to Aesthetic Resources 3.18

Table 3.2-1 Checklist for Assessing Project Specific Potential Impacts to
Agricultural Resources..... 3.22

Table 3.3-1 Nevada County Area Designations for State and National
Ambient Air Quality 3.24

Table 3.3-2 NSAQMD Tiered Significance Thresholds..... 3.26

Table 3.3-3 Project CalEEMod Predicted Maximum Daily Unmitigated
Project Emissions Estimates 3.29

Table 3.3-4 Project Mitigation Measure AIR-2 Percentage Reduction of
Pollutants..... 3.29

Table 3.3-5 CEQA Checklist for Assessing Project-Specific Potential Impacts
to Air Quality..... 3.30

Table 3.3-6 Project CalEEMod Predicted Maximum Daily Project Emissions
Estimates with Mitigation Measure AIR-2 Implemented..... 3.32

Table 3.4-1 Plant species observed on May 2 and July 10, 2016, during
baseline biological field surveys and habitat assessment for the Little
Deer Creek Restoration and Flood Control Project, Nevada County,
California..... 3.50

Table 3.5-1 Previously Recorded Cultural Resources..... 3.109

Table 3.5-2 Previous Cultural Resources Studies 3.109

Table 3.5-3 Cultural Resources within the Project Area Recorded During
Field Surveys..... 3.110

Table 3.5-4 CEQA Checklist for Assessing Project-Specific Potential Impacts
to Soils and the Potential for Impacts to Cultural Resources..... 3.111

Table 3.6-1 CEQA Checklist for Assessing Project-Specific Potential Impacts
to Soils and the Potential for Geologic Impacts 3.119

Table 3.7-1 CEQA Checklist for Assessing Project-Specific Potential
Greenhouse Gas Emissions Impacts 3.129

Table 3.7-2 Little Deer Creek and Pioneer Park Restoration Project
CalEEMod Predicted CO2e Emissions Estimates 3.130

Table 3.8-1 CEQA Checklist for Assessing Project-Specific Potential Impacts
Relative to Hazards and Hazardous Materials..... 3.134



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Table 3.10-1	CEQA Checklist for Assessing Project Specific-Potential Impacts to Hydrology and Water Quality	3.148
Table 3.9-1	CEQA Checklist for Assessing Project-Specific Potential Impacts to Land Use Planning	3.162
Table 3.11-1	CEQA Checklist for Assessing Project-Specific Potential Impacts to Mineral Resources	3.165
Table 3.12-1	Definition of Sound Measurement	3.167
Table 3.12-2	Vibration Source Levels for Construction Equipment	3.168
Table 3.12-3	Guideline Vibration Annoyance Potential Criteria	3.169
Table 3.12-4	Guideline Vibration Damage Potential Criteria	3.169
Table 3.12-5	Land Use Compatibility for Community Noise Environments	3.170
Table 3.12-6	County of Nevada Exterior Noise Limits	3.172
Table 3.12-7	CEQA Checklist for Assessing Project-Specific Potential Noise Impacts	3.173
Table 3.12-8	Typical Construction Noise Emission Levels	3.175
Table 3.12-9	Construction Equipment Related to Groundbourne Vibration	3.176
Table 3.13-1	CEQA Checklist for Assessing Project-Specific Potential Population and Housing Impacts	3.181
Table 3.14-1	CEQA Checklist for Assessing Project-Specific Potential Impacts to Public Services	3.185
Table 3.15-1	CEQA Checklist for Assessing Project-Specific Potential Impacts to Recreation	3.190
Table 3.16-1	CEQA Checklist for Assessing Project-Specific Potential Impacts to Transportation and Traffic	3.196
Table 3.17-1	CEQA Checklist for Assessing Project-Specific Potential Impacts to Utilities and Public Services	3.201
Table 3.18-1	CEQA Checklist for Assessing Project-Specific Mandatory Findings of Significance	3.204

LIST OF FIGURES

Figure 1.1	Project Vicinity	1.3
Figure 1.2	Project Location	1.4
Figure 3.4-1	Known Occurrences of Special-status Species within 5 miles of the Proposed Project Area for the Little Deer Creek Restoration and Flood Mitigation Project, Nevada County, California (CDFW 2016e)	3.48
Figure 3.6-1	Geology and Soils	3.118
Figure 3.9-1	Hydrology and Floodplain	3.147

LIST OF APPENDICES

Appendix A	CalEEMod Calculations	A.1
Appendix B	Native American Correspondence	B.1
Appendix C	Site Characterization Report	C.2

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

1.0 PROJECT DESCRIPTION

The proposed Little Deer Creek Restoration and Flood Mitigation Project (Project) is a State of California (State) grant funded Project located within Pioneer Park (Park) in Nevada City (City), California. This proposed Project is made possible through a joint effort between the City, Sierra Streams Institute (SSI) and the California Department of Water Resources (DWR) Urban Streams Restoration Program Grant. There are three primary objectives of the proposed Project- 1) to restore approximately 640 linear feet (195 meters) of Little Deer Creek; 2) to reduce flooding impacts to the adjacent Lower Field, and general vicinity of Pioneer Park, by widening the streambed and regrading the Lower Field; and 3) to construct a "Roll and Stroll" trail (i.e., pedestrian, bike, recreational trail) within the perimeter of the Park boundaries along Little Deer Creek. The specific proposed Project details including background information, location, parameters, improvements, construction activities and schedule are provided below.

1.1 BACKGROUND

Little Deer Creek has been impacted by anthropogenic factors since the days of the Gold Rush. Waters were diverted for mining operations and neighboring forests were logged for timber. Subsequently, gravel fill and other materials (e.g., mercury, arsenic, etc.) entered the streams and adjacent soils, and the native vegetation has been crowded out by invasive non-natives species that create tinder-dry conditions (i.e., extremely dry and flammable material) during hot dry summers.

Prior to the construction of Pioneer Park in the 1940's, Little Deer Creek flowed through what is now the middle of the Lower Field, in the northern portion of Pioneer Park, which includes the Childer's Field Little League baseball diamond. Hydro-modification from local development and Park construction has resulted in significant stream channel impacts as discussed below.

During the development of Pioneer Park, imported fill soil was placed in the Little Deer Creek stream channel to regrade the site to a higher elevation and relocate the stream around the eastern and northern perimeter of the Lower Field at the Park. Fill material was imported from a nearby site located approximately one mile southeast of Pioneer Park, on property owned by the Bureau of Land Management (BLM) that is adjacent Gracie Road. Records indicate that this fill material was likely sourced from an abandoned mine site in the area, and contained relatively high arsenic concentrations. Furthermore, over the past 60 plus years, various efforts to control flooding in Little Deer Creek has led to additional channel modifications. Concrete channel lining was constructed in various locations along the new stream channel alignment and a berm was also constructed along the eastern edge of the west streambank of the Lower Field in an effort to confine (i.e., direct) higher than average stream flows.

The fill placed in the Lower Field consists of poorly drained clay-loam soil. During larger winter storm events, Little Deer Creek routinely overtops its banks upstream of the channelized section



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

and floods the Lower Field. Poor soil drainage in the field results in lengthy periods of inundation during the rainy season, thus making the Lower Field unusable. In addition, the current stream channel has a significant amount of concrete lining along the streambanks in Pioneer Park. In many areas, the existing concrete channel lining is decomposing into the stream channel. Unlined streambanks are incised from the inability to access the floodplain. An unnaturally narrow channel and sparse non-native vegetation is typical along the streambanks. As the community expands and grows, Little Deer Creek is also influenced by land development, sewage disposal and agricultural practices.

1.2 PROJECT LOCATION

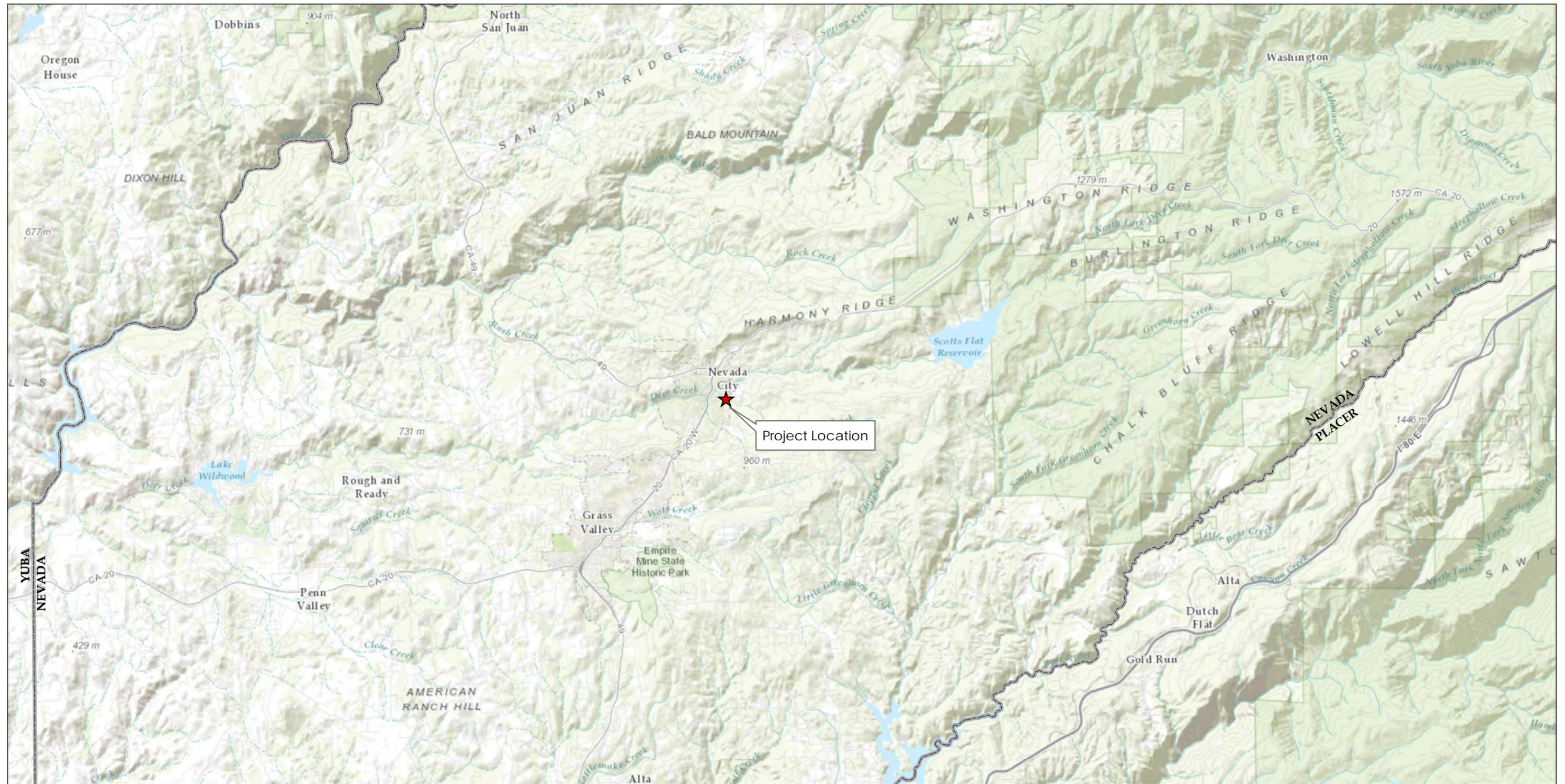
The proposed Project is located at Pioneer Park within the incorporated area of the City of Nevada City, in western Nevada County (County), California. Elevation at the site ranges from approximately 2,480 to 2,510 feet (756 to 765 meters) above mean sea level (amsl). The proposed Project vicinity and location maps are included as Figures 1.1 and 1.2. The proposed Project is located in the Nevada City U.S. Geologic Survey (USGS) Nevada City Quadrangle (Quad) at township 16 north, range 9 east, and section 7. The specific coordinates at the proposed work area are 39°15'36.4"N latitude, and -121°00'37.8"W longitude. The Park is owned by the City, with two baseball fields, a public swimming pool, playground, picnic areas and an outdoor theater. Pioneer Park is the only recreational park of its kind in Nevada City.

Little Deer Creek, a portion of Deer Creek, is a tributary to the Yuba River, in the Yuba River Watershed. Deer Creek begins in the Sierra Nevada foothills, above Scotts Flat Reservoir at 4,800 feet (1,463 meters) amsl. Deer Creek winds its way through pine forests and alpine meadows, forging canyons and shaping the landscape as it moves downhill. Throughout its length, this stream provides potential habitat for fish and wildlife. Downstream, Deer Creek Falls pushes the water towards Lake Wildwood, a recreational reservoir. At 300 feet (91 meters) amsl, and 34 miles from its source, Deer Creek joins the Yuba River.

Park Avenue and residential properties are located along the north boundary of Pioneer Park and the proposed Project area. The eastern boundaries are also occupied by existing residential development and support through traffic. Other existing portions of Pioneer Park are located south of the proposed Project site. Residential properties and Nimrod Street comprise the western boundary of the proposed Project site at Pioneer Park.



Z:\little_deer_creek\gh\mxd\fig1.1_vicinity_deer_creek.mxd Revised: 2016-05-31 By: jmcandless



Coordinate System: NAD 1983 StatePlane California 8 FIPS 0402 Feet

Figure No.
1.1

Title

Proposed Project Vicinity

Client/Project
City of Nevada City
Little Deer Creek
Restoration and Flood Mitigation Project



VA:1840\architect\184030558\VA\mxd\184030558\locatior_deer_creek.mxd Revised: 2016-07-25 By: imccardbbs



- Legend**
- Proposed Trail
 - Little Deer Creek
 - Hydrology
 - Pioneer Park Field

Figure No.
1.2

Title
Proposed Project Location

Client/Project
City of Nevada City
Little Deer Creek
Restoration and Flood Mitigation Project



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

1.3 PURPOSE AND NEED

The purpose of the proposed Project is to restore a segment of Little Deer Creek and provide a more stable and natural condition (e.g., flows, floodplain, and riparian) as it moves through Pioneer Park. The overall proposed Project will:

- Remove existing concrete channel lining and soil berm that confines Little Deer Creek, thus widening the stream channel and reconnecting it to its original floodplain;
- Revegetate and restore the area with native plants;
- Increase Pioneer Park's recreational value by reducing annual flooding;
- Create accessibility through the construction of a "Roll and Stroll" trail, which will also enhance community enjoyment and the use of Little Deer Creek and Pioneer Park;
- Engage the local community through environmental stewardship and education of citizens; and
- Improve urban stream health and water quality management issues.

In addition to flow concerns, another vital concern at the site is the relatively high levels of arsenic in the Lower Field soil. Recent sampling and analysis has confirmed arsenic concentrations ranging from 4.7 to 106 milligrams per kilogram (mg/kg), and a mean concentration of 54.9 mg/kg in these areas. These concentrations exceed EPA and California modified Regional Screening Levels (RSLs) established for recreational properties. These levels also exceed typical local background arsenic concentrations, which typically range up to 20 mg/kg or higher (Sierra Streams Institute 2014).

To address arsenic levels near the ground surface, the proposed Project would include the removal and appropriate off-site disposal of arsenic impacted soil. Clean import fill material would then be placed and compacted in the newly graded portions of the stream channel along with rock placed for stream bank protection to minimize public exposure and improve water quality.

1.4 PROPOSED IMPROVEMENTS

The proposed restoration and associated improvements include removal of the concrete channel lining, streambank restoration, regrading of the Lower Field, a new "Roll and Stroll" trail, and drainage improvements associated with Little Deer Creek within Pioneer Park. Design and construction of the proposed improvements will be performed in general accordance with Low Impact Development (LDI) principles (i.e., natural stormwater management) intended to improve and protect water quality. Specific information regarding the proposed Little Deer Creek restoration and Pioneer Park improvements are discussed henceforth.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

1.4.1 Stream Improvements

Stream restoration activities are proposed to improve approximately 640 feet (195 meters) of Little Deer Creek in Pioneer Park. The upstream location of the proposed restoration work begins at the existing Max Solaro Drive Bridge, at the southeast corner of the Lower Field. Proposed restoration work will continue along various portions of both streambanks, to the existing footbridge stream crossing located adjacent to the tennis courts at Pioneer Park.

Approximately 30 cubic yards (25 cubic meters) of concrete channel lining will be removed from the channelized stream banks in these areas. The concrete will be recycled off-site. Approximately 450 cubic yards (345 cubic meters) of soil will be excavated from the existing berm and west streambank, and also disposed of off-site. Following excavation of the existing berm material, approximately 200 cubic yards (155 cubic meters) of clean import fill and rock will be placed for streambank erosion protection. Rock sizes will vary based on the hydrologic analysis; however will range between 2-12 inches for streambed material, and between 12-36 inches for streambank protection. The rock will be interspersed with native riparian species such as willows (*Salix* spp.) and other perennial grasses.

1.4.2 Field Improvements

The Lower Field will be regraded to minimize the potential for exposure to arsenic from the existing contaminated soils, provide additional floodplain storage volume and positive surface drainage, replace the outdated existing irrigation system and turf grass, and improve overall functionality. Up to approximately 1,750 cubic yards (1,350 cubic meters) of existing turf and underlying soil will be stripped or excavated from the Lower Field. Up to approximately 1,500 cubic yards (1,150 cubic meters) of clean imported fill will be placed as cover soil on the existing material. Cut and fill volumes may vary depending on the available project budget, however, the total volume of fill material placed in within the 100 year flood plain will not exceed the total volume of material excavated and disposed of off-site, so that the project results in a net increase in flood plain storage volume. New turf will consist of drought tolerant vegetation with low water requirements. A new irrigation system with low water usage requirements will be installed.

1.4.3 Trail Improvements

The total length of proposed multi-use "Roll and Stroll" trail is approximately 1,800 feet (550 meters). Approximately 300 linear feet (91 linear meters) of trail along the north edge of the East Parking Lot will include concrete pavement for the trail surface. The trail will extend to a sidewalk along Park Avenue, near the northern edge of Pioneer Park. An approximately 120 foot (37 meters) section of trail will be constructed between Park Avenue and the existing picnic area on the north side of Little Deer Creek. This section will be retained by a rock wall and will involve placement of clean imported fill soil to maintain an even grade of less than 8.3 percent. The remainder of the trail will generally conform to the existing ground surface grade and include



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

resurfacing with up to approximately 25 cubic yards (20 cubic meters) of Caltrans Class 2 Aggregate.

1.5 PROJECT PHASING

The proposed Project construction will be performed in three work phases, which in some cases will overlap. They are as follows:

- **Phase 1- Little Deer Creek Restoration:**Phase 1 will include the removal of concrete within Little Deer Creek, removal of a soil berm on the east side of Little Deer Creek at the eastern edge of the Lower Field, channel widening, and placement of rock and woody materials in the reach of Little Deer Creek passing through Pioneer Park. Excavated concrete will be recycled off-site. Excavated soil will be disposed of off-site at a Class 2 landfill due to elevated naturally occurring arsenic concentrations. Riparian vegetation removal will be minimized to the extent feasible and habitat enhancement will occur through revegetation with native plants based on recommendations made by a qualified SSI Restoration Ecologist.
- **Phase 2- Pioneer Park Flood Mitigation:** Phase 2 will include proposed flood mitigation by re-grading the Lower Field to create enhanced floodplain connectivity and improve natural drainage. The proposed Project also includes stripping of the existing turf and underlying soil, topsoil replacement and final grading, seeding and/or installation of sod, and irrigation system improvements. Excavated soil will be disposed of off-site at a class 2 landfill due to elevated arsenic concentrations.
- **Phase 3- Trail Construction:**Phase 3 will include proposed trail construction to complete a "Roll and Stroll" trail around the Lower Field of Pioneer Park. A majority of the trail will traverse existing paved pathways or grass surfaced areas. A section of the trail along the north side of the Little Deer Creek will require soil grading and aggregate surfacing. A second trail section along the East Parking Lot will require construction of a concrete sidewalk.

1.6 PROJECT CONSTRUCTION

The following section provides a description of activities that will occur during proposed Project construction activities to meet the related stream channel, field, and trail improvements within Little Deer Creek at Pioneer Park. Construction equipment will include track-mounted and rubber tired backhoes, excavators, loaders, graders, and 25-ton dump trucks.

The hours of construction for all phases will generally be confined to 7 a.m. to 7 p.m. on weekdays. However, if activities, such as dewater pumping require 24 hour activities or weekend work, the City will post notices at least a week in advance. Access to the picnic area to the south of the East Parking Lot would be provided during weekends. Construction is not anticipated to restrict traffic on local roadways.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

1.6.1 Stream Construction

The following activities are proposed during Phase 1- Little Deer Creek Restoration:

Fencing/Public Safety: Prior to proposed construction, temporary chain-link fencing will be placed around the entire construction and staging areas and maintained throughout the construction period. Access will be restricted to construction and engineering personnel. Signs will be posted to inform the public and maintain public safety.

Installation of BMPs: Prior to proposed construction, temporary Best Management Practices (BMPs) including (non-monofilament) straw wattles, silt fencing, and temporary construction fencing will be installed to protect sensitive areas, limit sedimentation impacts and secure construction areas.

Temporary Dewatering: Prior to the proposed stream restoration, a temporary coffer dam will be installed upstream of the proposed stream restoration area. The Little Deer Creek flows will be pumped around the restoration area through closed conduit piping on a continuous basis throughout Phase 1 of the proposed Project. Pumping is anticipated to be maintained for approximately four to six weeks. Based on streamflow measurements in Little Deer Creek between July and September during the proposed Project work window, stream flows are estimated to be less than one cubic foot per second (cfs). This is approximately 646,000 gallons per day, or 3,876,000 gallons over the proposed six week pumping schedule. A Dewatering Plan and Aquatic Species Protection Plan will be implemented based on consultation with the appropriate regulatory agencies. Dewatering will be monitored on a continuous basis by construction personnel throughout the stream construction phase.

Clearing and Grubbing: Proposed restoration areas will first be cleared of ground vegetation (e.g., grasses, forbs, small shrubs, etc.) using rubber-tired or track mounted excavation equipment. Vegetative matter will be separated from soil for separate disposal off-site at a City owned property. To the extent feasible large riparian trees (greater than 5 inch diameter at breast height/dbh) adjacent to Little Deer Creek will be protected using standard BMPs for tree protection during construction activities; however, some smaller trees may require removal. Appropriate mitigation measures will be incorporated as required to protect additional wildlife and plant species at the proposed Project site (Refer to the Biological Resources Section of this document for mitigation details).

Concrete Removal: The concrete lining the Little Deer Creek channel is proposed to be demolished and removed from the stream using excavation equipment. To the extent feasible, equipment will be staged from the streambank to conduct concrete removal. Selected areas of concrete along the eastern stream bank may be broken off at the ground surface and left in place as scour protection. Where concrete is not left in place, rock and woody materials would also be placed along the streambank to prevent scour. Removed concrete would be cleaned of adhered soil, loaded onto dump trucks and transported off-site for recycling at a local facility.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

Soil Excavation: Proposed excavation activities would include the use of a rubber-tired, or tracked, backhoe. Soils along the western streambank, including the berm soils, are proposed to be excavated and stockpiled in windrows adjacent to the proposed Project restoration area. Proposed excavation would not likely extend deeper than the depth of the existing streambed, and would be limited to areas above the depth of first encountered groundwater, which is expected to be at a minimum depth of approximately two feet. Disturbance of the existing streambed channel will be minimized. During construction, temporary piezometers (i.e., instrument measuring pressure and/or depth) may be installed by SSI to monitor groundwater depths in excavation areas. Proposed excavation spoils will be stockpiled and further analyzed for total arsenic and/or other metals as required for landfill disposal characterization, as required by the California Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (SWRCB). Once landfill disposal approval is granted, excavated soil will be loaded into dump trucks, hauled off-site and properly disposed of. Excavation will not extend beyond the depth of first encountered groundwater.

Stream Bank Restoration: Following proposed concrete removal, soil excavation and channel widening, a 2 to 4 inch (5 to 10 centimeter) soil layer will be placed and compacted to cover soil remaining in place with elevated arsenic concentrations, as determined by the proposed Project Design Engineer. The cover soil will extend in thickness up to 4 inches in areas of relatively high scour, and at least 2 inches thick in other areas. Rock and woody materials will be placed to enhance habitat and armor high scour areas. For additional stabilization and enhancement of site conditions, native vegetation, waddles, and willow stakes will be planted and placed within and along the margins of the Little Deer Creek stream channel.

1.6.2 Field Construction

The following activities are proposed during Phase 2- Pioneer Park Flood Mitigation:

- **Fencing/Public Safety:** Prior to proposed construction, temporary chain-link fencing will be placed around the entire construction and staging areas and maintained throughout the construction period. Access will be restricted to construction and engineering personnel. Signs will be posted to inform the public and maintain public safety.
- **Installation of BMPs:** Prior to proposed construction, temporary BMPs, including (non-monofilament) straw waddles, silt fence, and temporary construction fencing (i.e., exclusion fencing) will be installed to protect sensitive areas, limit sedimentation impacts, and secure construction areas.
- **Clearing and Grubbing:** The Lower Field will first be cleared of ground vegetation (e.g., grasses, forbs, small shrubs, etc.) using rubber-tired or track mounted excavation equipment. Vegetative matter will be separated from soil for disposal off-site at a City owned property. Appropriate mitigation measures will be incorporated into the proposed Project to protect vegetation and wildlife species at the proposed Project site. (Refer to the Biological Resources Section of this document for mitigation details).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

- **Over-Excavation:** Approximately 3.5 to 4.5 inches (9 to 11.5 centimeters) of arsenic contaminated soil will be excavated from the field where regrading is proposed to occur. Contaminated soil materials will be stockpiled on site, sampled and analyzed for total arsenic, and or other potential metals, as required for Class 2 landfill disposal characterization. Once landfill disposal approval is granted, excavated soil will be loaded into covered or sealed dump trucks, hauled off-site and properly disposed of.
- **Sub-Grading:** The sub-grade of the field will be graded to the engineer's specification within 1 inch (2.5 centimeters) to improve field drainage and create a natural flood channel along the restored stream bed.
- **Imported Fill Placement:** A layer approximately 3 to 4 inches (7.5 to 10 centimeters) of porous, well-draining soil will be placed as cover soil and lightly compacted over the arsenic impacted soil left in place. Placement will be within a 0.5 inch (1.30 inches) variance.
- **Irrigation System Upgrades:** The existing field irrigation system will be replaced, or upgraded, with a low flow irrigation system for water conservation.
- **Turf Replacement:** The regraded fields will be resurfaced with drought tolerant turf species suitable for the local climate.

1.6.3 Trail Construction

The following activities are proposed during Phase 3- Trail Construction:

- **Fencing/Public Safety:** Prior to proposed construction, temporary chain-link fencing will be placed around the entire construction and staging areas and maintained throughout the construction period. Access will be restricted to construction and engineering personnel. Signs will be posted to inform the public and maintain public safety.
- **Installation of BMPs:** Prior to construction, temporary BMPs including straw waddles (non-monofilament), silt fence, and temporary construction fencing will be installed to protect sensitive areas and secure construction areas. Proper erosion and sediment control BMPs will be in place during construction and post construction, as per the Stormwater Pollution Prevention Plan (SWPPP) for the proposed Project, until disturbed areas are reestablished.
- **Clearing and Grubbing:** The proposed trail alignment will first be cleared of ground vegetation (e.g., grasses, forbs, small shrubs, etc.) using rubber-tired or track mounted excavation equipment. Appropriate mitigation measures will be incorporated into the proposed Project to protect other vegetation and wildlife species at the proposed Project site. (Refer to the Biological Resources Section of this document for mitigation details).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

- **Trail Surface Placement:** Newly graded portions of the "Roll and Stroll" trail and portions of existing trail surrounding the Lower Field will be surfaced by placement of compacted Cal Trans Class 2 aggregate for Americans with Disability Act (ADA) compliance. The trail will extend to a sidewalk along Park Avenue, near the northern edge of Pioneer Park. An approximately 120 feet (37 meters) section of trail will be constructed between Park Avenue and the existing picnic area on the north side of Little Deer Creek. This section will be retained by a rock wall and will involve placement of clean imported fill soil to maintain an even grade of less than 8.3 percent. A concrete sidewalk will be installed along the western edge of the East Parking Lot.
- **Drainage Improvements:** Limited grading and/or soil berm construction will be performed along upslope areas (i.e., southern vicinity) of the Lower Field to improve site drainage. Runoff will be directed into infiltration trenches extending along portions of the field perimeter.

1.6.4 Access, Mobilization and Staging

Vehicle access to the proposed Project site and staging areas would be accessed from the Broad Street exit off California State Highway(s) 49/20 in Nevada City. From this exit, you access Pioneer Park by going right onto Boulder Street, right onto Park Avenue, and then continue right off Park Avenue to the East Parking Lot. Alternatively, you can access the West Parking Lot from Nimrod Street to the west of Pioneer Park.

Two temporary staging areas are proposed to support proposed Project construction activities during active construction. Primary staging areas would be established to store construction materials and equipment when not in use. The primary staging area is proposed in the existing 0.15 acre (6,535 square feet) West Parking Lot. This area is located in the northwest portion of Pioneer Park, near the tennis courts. A secondary staging area is proposed at the existing East Parking Lot. This staging site has a total area of 0.40 acre (17,425 square feet), and is located east of the proposed stream restoration area. Staging areas will be utilized for site access, short duration equipment storage and/or vehicle parking during the field regrading phase of the proposed Project.

The contractor staging and access will be coordinated with City Parks and Recreation Department (P&R) to allow for maximum public use of Pioneer Park facilities during active construction. Temporary chain-link fencing will be placed around the entire construction and staging areas and maintained throughout the construction period. Access will be restricted to construction and engineering personnel. Signs will be posted to inform the public and maintain public safety. At least two of the four parking lots at Pioneer Park, as well as side street parking, will be open for public parking at all times during construction.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

1.6.5 Project Schedule

Phase 1- Restoration of Little Deer Creek would be performed in the summer and fall of 2017, with revegetation monitoring and additional planting continuing throughout the course of the proposed Project.

Phase 2- Flood Mitigation by re-grading the Lower Field at Pioneer Park would be performed during the summer and fall of 2018 with turf replacement activities continuing through spring 2019 or later as needed.

Phase 3- "Roll and Stroll" trail construction would be performed during summer and fall 2017 and or summer and fall 2018, and is dependent on resource availability.

The total duration for proposed construction is approximately two years. Proposed construction would begin during the summer to fall of 2017, with some restoration activities occurring over the winter of 2017 to 2018. Construction activities would resume during the summer to fall of 2018, with restoration activities possibly occurring over the winter of 2018 to 2019. All proposed construction phases are scheduled to be completed within approximately 120 total calendar days, however earthwork is often dependent on weather conditions, therefore wet conditions have the potential to extend the construction duration to as much as 60 additional calendar days. Actual construction dates are contingent upon multiple planning factors, and are expected to occur within the next five years. Currently the proposed Project is budgeted over a three year period. If unforeseen circumstances push the proposed Project timeline back, construction could occur within five years of CEQA approval. A complete overview of construction, phasing, and the associated timeline is detailed in Table 1.1-1 below.

Table 1.1-1 Overview of Project Construction

Project Component	Construction Phase	Location/Area of Impact	Component Activities	Project Schedule
Site Preparation	Prior to construction	Western and Eastern Parking Lots at Pioneer Park	<ul style="list-style-type: none"> Staging and access preparation Installation of BMPs 	Summer and Fall 2017 resuming Summer and Fall 2018
Little Deer Creek Restoration	Phase 1	Little Deer Creek running along the northern and eastern edges of the Lower Field at Little Deer Creek	<ul style="list-style-type: none"> Temporary dewatering Clearing and grubbing Concrete removal Soil excavation Stream bank restoration 	Spring/Summer 2017 (2 months)
Pioneer Park Flood Mitigation	Phase 2	Pioneer Park Lower Field	<ul style="list-style-type: none"> Clearing and grubbing Over-excavation Sub-grading Imported fill placement Irrigation system upgrades Turf replacement 	Summer/Fall 2018 (2 months)



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Project Description
November 7, 2016

Trail Construction	Phase 3	Northern and eastern areas of the Lower Field at Pioneer Park, adjacent to Little Deer Creek	<ul style="list-style-type: none"> • Clearing and grubbing • Grading • Trail surface placement • Drainage improvements • Hours of construction • Trail construction timeline 	Summer/Fall 2017 and/or Summer 2018 (1-2 months)
Site Restoration	Post Construction	Little Deer Creek running along the northern and eastern edges of the Lower Field at Little Deer Creek	<ul style="list-style-type: none"> • Implement revegetation as needed to ensure species survivorship following the completion of all construction activities 	Fall 2017- Winter 2017/18 and Fall 2018- Winter 2018/19 (2 months)

1.7 CEQA PROCESS

The California Environmental Quality Act (CEQA) is the state environmental law that requires project proponents to disclose the significant impacts to the environment from proposed development projects. The intent of CEQA is to foster good planning and to consider environmental issues during the planning process. The City of Nevada City is the Lead Agency under CEQA for the preparation of this Initial Study/Mitigated Negative Declaration. CEQA Guideline (Section 21067) defines the Lead Agency as "the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment". The approval of the proposed Project is considered a public agency discretionary action, and therefore the proposed Project is subject to compliance with CEQA. The public, Nevada County, and other local and state resource agencies will be given the opportunity to review and comment on this document during the 30-day Public review period. Comments received during the 30-day review period will be considered by the City of Nevada City prior to the certification of the CEQA disclosure document and Project approval.

1.8 SCOPE OF THIS STUDY

As the Lead Agency under CEQA, Nevada City is responsible for compliance with the environmental review process prescribed by the CEQA guidelines. This study focuses on the environmental issues identified as possibly significant in the CEQA checklist and by CEQA guidelines. A complete Project Description is included in the first part of this Section. All areas of concern relevant to the proposed Project are analyzed in Section 3.0 and references are included in Section 4.0. Data and general information for the biological sections was drawn from institutional knowledge at SSI, where staff have over 16 years' experience working in Deer Creek. In addition, reconnaissance-level site-specific baseline biological field surveys and a formal wetland delineation were performed by a SSI Restoration Ecologist/Botanist and Wildlife Biologist on May 2, June 15, and July 10, 2016. Intensive-level pedestrian cultural resource surveys were conducted by a Stantec archeologist on June 23 and September 4, 2016.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Checklist Form and Analysis
November 7, 2016

2.0 ENVIRONMENTAL CHECKLIST FORM AND ANALYSIS

1. **Project Title:**
City of Nevada City Little Deer Creek Restoration and Flood Mitigation Project
2. **Lead agency name and address:**
City of Nevada City, 317 Broad Street, Nevada City CA 95959
3. **Contact person and phone number:**
Contact: Dawn Zydonis, Park and Recreation Supervisor
Phone: (530) 265-2496 x129
4. **Project location:**
The proposed Project is located at Pioneer Park within the incorporated area of the City of Nevada City, in western Nevada County, California.
5. **Project sponsor's name and address:**
City of Nevada City, 317 Broad Street, Nevada City CA 95959
Phone: (530) 265-2496
6. **General plan designation and zoning:**
The proposed Project site is designated as Public (PUB) under the Nevada City General Plan. The zoning designation for the proposed Project site, Pioneer Park, is Public (PUB). The surrounding boundary of Pioneer Park is Single Family Residential (SF).
7. **Description of Project:**
Refer to the Project Description (Section 1 above).
8. **Surrounding Land Uses and Setting:**
The surrounding boundary of Pioneer Park is Single Family Residential (SF)
9. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):**
In addition to CEQA compliance, this project will also be subject to approvals by the following environmental regulatory agencies:
 - US Army Corps of Engineers
 - National Historic Preservation Officer
 - Regional Water Quality Control Board
 - California Department of Fish and Wildlife
 - California Department of Toxic Substances Control



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Checklist Form and Analysis
November 7, 2016

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this Project, involving at least one impact that requires mitigation to reduce the impact from "Potentially Significant" to "Less than Significant" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazards & Hazardous Materials | <input checked="" type="checkbox"/> Hydrology/Water Quality |
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input checked="" type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input checked="" type="checkbox"/> Recreation |
| <input checked="" type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (TO BE COMPLETED BY THE LEAD AGENCY.)

On the basis of this initial evaluation:

- I find that the proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the Project have been made by or agreed to by the Project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed Project MAY have a significant effect on the environment, and an environmental impact report is required.
- I find that the proposed Project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR, including revisions or mitigation measures that are imposed upon the proposed Project, nothing further is required.

Signature 
 Printed Name Amy Wolfson

Date 11/8/2016
City Planner
 For City of Nevada City



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.0 ENVIRONMENTAL IMPACTS

The following sections summarize (1) the environmental setting, (2) impacts, and (3) proposed mitigation measures associated with the Project. Additional topics such as the methodology and/or regulatory setting were also included where applicable. In all cases the proposed Project activities described in the Project description were analyzed for potential impacts. In each section all proposed Project activities are referred to either explicitly by name, or implicitly as “the Project”.

3.1 AESTHETICS

The aesthetics section discusses the proposed Project's potential impacts to aesthetic resources within and around the proposed Project area. Aesthetic resources refer to the natural and scenic viewsheds that define a region. The regulatory setting describes applicable laws and regulations administered by the local governing body that aim to preserve aesthetic resources. The environmental setting provides general information of the scenic and aesthetic resources in and around the proposed Project area, and finally, the impact analysis evaluates the potential impacts of the proposed Project on those resources.

3.1.1 Regulatory Setting

The State of California Department of Transportation (Caltrans) administers State scenic route designations within Nevada County. Nevada County also designates scenic corridors along certain routes within the County. State scenic route designations include:

- Highway 20 from Skillman Flat Campground to a half mile east of Lowell Hill Road

3.1.1.1 Nevada County General Plan

The following objectives, goals, and policies regarding scenic resources are set forth in the Conservation Element of the Nevada County General Plan:

Objective 2.14: Encourage protection and enhancement of the natural scenic beauty of this County in support of the tourist trade.

Objective 15.2: Promote and provide for the continued diversity and sustainability of the forest resources including timber, watersheds, wildlife habitat, aesthetics, and recreation.

Goal 18.1: Promote and provide for aesthetic design in new development which reflects existing character.

Policy 18.1: The County shall prepare Community Design Guidelines applicable to the various General Plan Designations and zoning classifications, and adopt such guidelines as part of



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Comprehensive Site Development Standards, to be used in the project site review of all discretionary and ministerial project permits. The guidelines may include, but not be limited to the following:

- Community identity
- Preservation of natural landforms
- Protection and management of viewsheds
- Protection and management of river corridors and other significant streams

Policy 18.2:The County may adopt Specific Design Guidelines for areas within *Community Regions, Rural Places, and Rural Centers* to provide for the maintenance of community identity, scenic resources and historic sites and areas.

Goal 18.2: Protect and preserve important scenic resources.

Objective 18.2:Develop standards to protect scenic resources and view sheds.

Policy 18.7: Encourage protection of scenic corridors wherever feasible.

3.1.1.2 Nevada City General Plan

The following goal and objective regarding scenic resources are set forth in the Community Goals Element of the Nevada City General Plan:

- Economic Development Goal 5: Support the historic and visual quality of the City.
- Development and Annexation Objective: Determine appropriate use for land in Nevada City on the basis of the following criteria:
Physical characteristics (slope, soils, vegetation, visual sensitivity, accessibility, etc.)

3.1.2 Environmental Setting

The proposed Project would restore approximately 640 feet (195 meters) of Little Deer Creek and provide a more stable and natural condition as it flows through Pioneer Park in Nevada City.

Park Avenue and residential properties are located along the north boundary of Pioneer Park and the proposed Project area. The eastern boundaries are also occupied by existing residential development and support through traffic. Other existing portions of Pioneer Park are located south of the proposed Project site. Residential properties on Nimrod Street comprise the western boundary of the proposed Project site at Pioneer Park.

The general aesthetics of the area is that of a park atmosphere set in a mixed coniferous forest. There are vistas across the Lower field and shaded park areas (paths, picnic tables, and play structures) in the forested sections of the park



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.1.3 Impact Analysis

Table 3.1-1 CEQA Checklist for Assessing Project-Specific Potential Impacts to Aesthetic Resources

I. AESTHETICS: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) Would the Project have a substantial adverse effect on a scenic vista?

Finding: No impact

Based on review of the Caltrans State Scenic Highway List and the Nevada County General Plan, no officially designated scenic vistas or scenic land units were identified within or around the proposed Project site (California Department of Transportation 2016, Nevada County General Plan 1996). The proposed Project would not have substantial adverse effects on any scenic vistas because the area is not a designated scenic vista/land and the proposed Project would not significantly change the current viewshed. Therefore, there would be no impact.

b) Would the Project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Finding: No impact

Based on review of the Caltrans State Scenic Highway List and the Nevada County General Plan, there is no officially designated state scenic highway or scenic land on or adjacent to the proposed Project site from which the site would be visible (California Department of Transportation 2016, Nevada County General Plan 1996). Highway 20 is approximately one-third of a mile away from the proposed Project site, and is the closest Eligible State Scenic Highway. While Highway 20 is eligible for designation, it is not visible from the proposed Project site. There is no officially designated state scenic highway within or immediately surrounding the proposed Project limits; and the proposed Project would not damage scenic resources along a state scenic highway. Regional roadways are identified in the General Plan as scenic roadways



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

worthy of protection, but none of these roadways fall within the proposed Project limits nor is the proposed Project site visible from the scenic roadway. Therefore, the proposed Project entails no impact to scenic resources within a state scenic highway.

c) *Would the Project substantially degrade the existing visual character or quality of the site and its surroundings?*

Finding: Less than significant

The proposed Project is located within Pioneer Park. Residential properties are located along the north and west boundaries of Pioneer Park and the proposed Project area. The stream, field, and trail improvements would follow what is outlined in the Environmental Settings section. The stream improvements would begin at the upstream location at Max Solaro Drive Bridge, at the southeast corner of the Lower Field. The trail improvements would include approximately 300 feet of trail along the north edge of the East parking lot, 300 feet of trail between Little Deer Creek and Park Avenue near the northern edge of Pioneer Park, and the rest would traverse existing paved pathways or grass surfaced areas. The residences along Park Avenue would have at least temporary partial views of construction equipment but would not experience a change in visual character once the proposed Project is constructed. Where the proposed Project is visible from these residences, the stream improvements would be surrounded by vegetation, the field improvements would visually entail a temporary shift from a green field to dirt and then revegetation to green again, and the trail improvements would be minimal, as a majority of the trail would traverse existing pathways or grass surfaced areas.

The temporary visual impacts during construction would be up to 180 calendar days over a two year period and would likely be partially visible from the nearby residences within view of the proposed Project site. Specifically, views of construction, traffic, and staging areas along the proposed Project site would be temporarily visible from nearby residences.

Because the stream, field, and trail improvements impacts would be minimal in geographic extent, the topographic changes would not be significant, and construction would be of a short duration (up to 180 calendar days over a two year period), potential impacts to the aesthetic character of the area are considered less than significant.

d) *Would the Project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?*

Finding: Less than significant

No permanent lighting is involved with the proposed Project. Construction would typically take place during the daylight hours between 7 a.m. and 7 p.m. Although the proposed Project could have temporary lighting impacts during construction, no permanent sources of substantial light or glare are anticipated; therefore, impacts are considered less than significant.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.2 AGRICULTURAL RESOURCES

The agricultural resources section discusses the potential impacts of the proposed Project to agricultural resources within the proposed Project area and region.

3.2.1 Regulatory Setting

Applicable regulations and policies considered relevant to the proposed Project are summarized below. This section discusses the Federal and State regulations and local policies and objectives that govern agricultural resources applicable to the proposed Project. The zoning designation of the proposed Project is Public (PUB) and there is no agricultural or forest land immediately surrounding the proposed Project area. Water from Little Deer Creek ties into Nevada Irrigation District's raw water canal network and, as such, protection of water resources have been evaluated.

3.2.1.1 Farmland Protection Policy Act (FPPA)

The Farmland Protection Policy Act (FPPA) of 1981 [Sections 1539-1549 P.L. 97-98, Dec 22, 1981], requires the Secretary of Agriculture to establish and carry out a program to "minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to the extent practicable, will be compatible with state, unit of local government, and private programs and policies to protect farmland." [7 USC 4201-4209 & 7 USC 658].

3.2.1.2 Williamson Act

The California Land Conservation Act (Williamson Act) of 1965 is the state's principal policy for the "preservation of a maximum amount of the limited supply of agricultural land in the state" (Cal. Government Code Section 51220(a)). The purpose of the Williamson Act is to preserve agricultural and open space lands by discouraging premature and unnecessary conversion to urban uses. The Williamson Act enables private landowners to contract with counties and cities to voluntarily restrict their land to agricultural and compatible open-space uses. In return for this guarantee by landowners, the government jurisdiction assesses taxes based on the agricultural value of the land rather than the market value, which typically results in a substantial reduction in property taxes.

3.2.1.3 Nevada County General Plan

The following goal and objective outlined in the General Plan were considered when analyzing potential Project-related impacts to agricultural resources:

Goal 16.2: Provide for and protect agricultural water supplies.

Objective 16.10: Support the provision of adequate water for agricultural irrigation in Nevada County, while encouraging conservation in its use.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.2.1.4 Nevada City General Plan

The following goal and objective regarding agricultural resources are set forth in the Community Goals Element of the Nevada City General Plan:

- Preserve and enhance the important natural features, e.g., Sugarloaf, the ridges, the creeks, Gold Run, the hills within the city, and the steep terrain lying west of the city core.
 - Develop and implement a program to secure special easements to protect streamside zones as potential open space or pedestrian/bike trails, wildlife habitat, and permanent open space.
 - Prevent soil erosion and hillside scarring through control of grading, restrictions on removal of vegetation, and limitation of development on steep slopes.

3.2.2 Environmental Setting

The zoning designation for the proposed Project site, Pioneer Park, is Public (PUB). The surrounding boundary of Pioneer Park is Single Family Residential (SF).

There are no identified Williamson Act or other Eligible Open Space Restricted parcels within the proposed Project area (Nevada County Williamson Act Map 2015). The proposed Project site is primarily classified as Urban and Built-Up Land and the surrounding area is comprised of Other Land according to the Farmland Mapping and Monitoring Program (FMMP 2016). Urban and Built-Up Land is occupied by structures with a moderate to high building density. Common examples of Urban and Built-Up Land are residential, industrial, commercial, institutional facilities, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, and water control structures. Other Land is not included in any other mapping category. Common examples of Other Land include low density rural developments, brush, timber, wetland, and riparian areas not suitable for livestock grazing, confined livestock, poultry, or aquaculture facilities, strip mines, borrow pits, and water bodies smaller than 40 acres. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as other land (FMMP 2016).

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.2.3 Impact Analysis

Table 3.2-1 Checklist for Assessing Project Specific Potential Impacts to Agricultural Resources

II. AGRICULTURE RESOURCES: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Would the Project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

Finding: No Impact

The proposed Project activities would not convert any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. As mentioned above, the proposed Project site is classified primarily as Urban and Built-Up Land according to the Farmland Mapping and Monitoring Program (FMMP 2016). The construction of the proposed Project would be temporary and would not permanently impact the surrounding area. Since the proposed Project site is not located on designated agricultural lands or lands used for agricultural uses there would be no impact from the proposed Project to agricultural use. Therefore, no impact is anticipated.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

b) *Would the Project conflict with existing zoning for agricultural use or a Williamson Act contract?*

Finding: No Impact

The proposed Project area is currently designated as Public and surrounded by Single Family Residential parcels (Nevada City General Plan 2008). The proposed Project site is classified as Urban and Built Up Land according to the Farmland Mapping and Monitoring Program (CDC 2016). The entire proposed Project area is not registered under the Williamson Act based on a review of the most recent Williamson Act lands map published by the Department of Conservation in 2015. Therefore, the proposed Project would not conflict with existing zoning for agricultural use or a Williamson Act contract and no impact is anticipated.

c) *Would the Project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?*

Finding: No Impact

The proposed Project area is currently zoned as Public and surrounded by Single Family Residential by Nevada City (Nevada City General Plan 2008). The proposed Project is not designated as Agriculture/Forestry, and therefore is not zoned for timber production. Therefore, no impacts would occur.

d) *Would the Project result in the loss of forest land or conversion of forest land to non-forest use?*

Finding: No Impact

The proposed Project area is currently zoned as Public and surrounded by Single Family Residential parcels (Nevada City General Plan 2008). The proposed Project is not located on forest land nor is it located in land zoned for timber production. Additionally, the proposed Project would not involve removal of large trees within the proposed Project area. Therefore, no impacts would occur.

e) *Would the Project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?*

Finding: No Impact

The proposed Project site is classified primarily as Urban and Built-Up Land according to the Farmland Mapping and Monitoring Program (FMMP 2016). The proposed Project area is not registered under the Williamson Act based on a review of the most recent Williamson Act lands map published by the Department of Conservation in 2015. The proposed Project would not involve any other changes in the existing environment that would result in conversion of farmland or forestland to non-agricultural or non-forest use. Therefore, no impact would occur.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.3 AIR QUALITY

3.3.1 Regulatory Setting

The Project site is within the Mountain Counties Air Basin and is under the jurisdiction of the Environmental Protection Agency (EPA), the California Air Resources Board (CARB), and the Northern Sierra Air Quality Management District (NSAQMD).

3.3.1.1 Federal Clean Air Act (FCAA)

The FCAA establishes the framework for modern air pollution control. The FCAA, enacted in 1970 and amended in 1990, directs the EPA to establish ambient air quality standards for the six criteria pollutants: ozone (O₃), carbon monoxide (CO), lead (Pb), nitrogen dioxides (NO_x), particulate matter (PM₁₀, PM_{2.5}), and sulfur dioxide (SO₂). These standards are divided into primary and secondary standards, the former are set to protect human health, the latter are set to protect environmental values, such as plant and animal life.

3.3.1.2 California Clean Air Act (CAA)

The CAA focuses on attainment of the California Ambient Air Quality Standards (CAAQS). These standards are more stringent than federal regulations with respect to certain criteria pollutants and averaging periods. Responsibility for monitoring the CAAQS is placed on the CARB and local air pollution control districts. Table 3.3-1 summarizes state and national ambient air quality designations for Nevada County.

Table 3.3-1 Nevada County Area Designations for State and National Ambient Air Quality

Criteria Pollutants	State Designation	National Designation
Ozone	Non-attainment	Non-attainment
PM ₁₀	Non-attainment	Unclassified
PM _{2.5}	Unclassified	Unclassified /Attainment
Carbon Monoxide	Unclassified	Unclassified /Attainment
Nitrogen Dioxide	Attainment	Unclassified/Attainment
Sulfur Dioxide	Attainment	Unclassified
Sulfates	Attainment	-
Lead	Attainment	Unclassified/Attainment
Hydrogen Sulfide	Unclassified	-
Visibility Reducing Particles	Unclassified	-

Source: CARB 2013

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.3.1.3 Northern Sierra Air Quality Management District (NSAQMD)

NSAQMD adopted Rules 202, 205, and 226, to improve air quality in the district. Below is a summary of these rules as they apply to the proposed Project:

Rule 202 – Visible Emission Limitations: A person shall not discharge into the atmosphere from any single source of emission whatsoever any air contaminant for a period or periods aggregating more than three (3) minutes in any one (1) hour which is:

- A. As dark or darker in shade as that designated as No. 1 on the Ringlemann Chart, as published by the United States Bureau of Mines, or
- B. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (A) of this section.

Rule 205 – Nuisance: A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons, or to the public, or which endanger the comfort, repose, health or safety of any such persons, or the public, or which cause to have a natural tendency to cause injury or damage to business or property.

Rule 226 – Dust Control: The purpose of this rule is to reduce and control fugitive dust emissions to the atmosphere. This rule shall apply to any person engaged in:

- Dismantling or demolition of buildings
- Public or private construction
- Processing of solid bulk materials (i.e., sand, gravel, rock, dirt, sawdust, ash, etc.)
- Operation of machines or equipment
- Operation and use of unpaved parking facilities.

Any person shall take all reasonable precautions to prevent dust emissions. Reasonable precautions may include, but are not limited to, cessation of operations, cleanup, sweeping, sprinkling, compacting, enclosure, chemical, or asphalt sealing, and use of wind screens.

No person may disturb the topsoil or remove ground cover on any real property and thereafter allow the property to remain unoccupied, unused, vacant, or undeveloped unless reasonable precautions are taken to prevent generation of dust. A dust control plan must be submitted to and approved by the Air Pollution Control Officer before topsoil is disturbed on any project where more than one (1) acre of natural surface area is to be altered or where the natural ground cover is removed. In the dust control plan, the Air Pollution Control Officer may require use of palliatives, reseeding, or other means to minimize windblown dust.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

No person shall cause or allow the handling or storage of any materials on a manner which results, or may result in the generation of dust.

Any vehicle operation on a paved roadway with a load of any bulk material susceptible to being dropped, spilled, leaked, or otherwise escaping there from and being entrained in the air, must take one of the following control measures:

1. Six (6) inches of freeboard is maintained within the bed of the vehicle. For the purposes of this regulation, "freeboard" means the vertical distance from the highest portion of the edge of the load to the lowest part of the rim of the truck bed.
2. Materials contain enough moisture to control dust emissions from the point of origin to their final destination. Whenever possible, the use of dust suppressants must be applied in conjunction with the water.
3. Tarps or other cargo covers shall be employed.

Rocked/paved entry aprons or other effective cleaning techniques (e.g., wheel washers), may be required by the Air Pollution Control Officer to prevent tracking onto paved roadways. Paved entry aprons may include road section or coarse aggregate or steel grate to "knock off" dirt which accumulates on the vehicle and/or vehicle wheels.

Any material which is tracked onto a paved roadway must be removed (swept or washed) as quickly and as safely as possible. Exceptions to this provision may be made by the Air Pollution Control Officer or the Project Manager for the construction, maintenance, and/or repair of paved roadways and for the application of de-icing and traction materials for wintertime driving safety.

Additionally, the NSAQMD has established tiered significance thresholds to determine the project's projected impacts and provide a basis from which to apply mitigation measures. This approach has been developed for NO_x and ROG, which are indicators of ozone levels, and PM₁₀ and includes the following threshold levels: a project with emissions meeting Level A thresholds will require the most basic mitigations; projects with projected emissions in the Level B range will require more extensive mitigation; and those projects which exceed Level C threshold will require the most extensive mitigations. The NSAQMD significance thresholds are detailed in Table 3.3-2 below.

Table 3.3-2 NSAQMD Tiered Significance Thresholds

NSAQMD Significance Thresholds	NO _x	ROG	PM ₁₀
Level A (lbs/day)	<24	<24	<79
Level B (lbs/day)	25-136	25-136	80-136
Level C (lbs/day)	≥137	≥137	≥137



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

NO_x, ROG, and PM₁₀ emissions must be mitigated to a level below significant. If emissions for NO_x, ROG, and PM₁₀ exceed 137 pounds per day (Level C), then there is a *significant* impact; below Level C is *potentially significant* (NSAQMD 2009).

3.3.1.4 Nevada County General Plan

As part of the General Plan, Nevada County has adopted certain goals intended to improve air quality.

Objective 10.8.2: Comply with air quality regulations by encouraging alternatives to debris burning.

Goal 14.1: Attain, maintain, and ensure high air quality.

Objective 14.2: Implement standards that minimize impacts on and/or restore air quality.

Policy 14.6: For new construction, the County shall prohibit the installation of non-EPA certified and non-EPA exempt solid fuel burning devices.

Policy 14.7A: The County shall, as part of its development review process, ensure that proposed discretionary developments address the requirements of NSAQMD Rule 226.

Ultramafic Rock, Serpentine, or Naturally Occurring Asbestos Occurrence

The Project is not located in an area mapped as having, or otherwise known to have, ultramafic rock, serpentine, or naturally occurring asbestos. Therefore, the statewide Asbestos Airborne Toxic Control Measures (ATCM) will not apply unless ultramafic rock/serpentine is discovered during grading or excavation. If ultramafic rock or serpentine is discovered, the NSAQMD must be notified no later than the following business day and the ATCMs will apply. The nearest ultramafic mapping unit is approximately 5.5 miles to the west of the Project (Saucedo and Wagner 1992).

3.3.1.5 Nevada City General Plan

The Nevada County General Plan does not contain elements associated with air resources.

3.3.2 Environmental Setting

The proposed Project is located in Nevada County within the Mountain Counties Air Basin. Air quality issues in Nevada County are primarily related to motor vehicle emissions generated from commuting to and from the Sacramento area as well as prevailing winds transporting pollutants from the San Francisco Bay Area and the Central Valley up against the western sierra foothills (NSAQMD 2014). According to the CARB, the Mountain Counties Air Basin violates the State



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

ozone and PM₁₀ standard. Prevailing eastward flowing surface winds can transport air pollution from the Sacramento Valley, San Joaquin, and San Francisco Bay area air basins up into the mountain valleys during the daytime and back down at night (CARB 2011).

3.3.3 Impact Analysis

Project specific air quality impacts were analyzed using the California Emission Estimator Model (CalEEMod) software, version 2013.2. The results of the air quality analysis can be found in Table 3.3-3 below and the potential Project-related impacts are discussed below. The CalEEMod model was run using the following assumptions/project details:

- Phase 1 of the Project includes the restoration of Little Deer Creek and would occur during the summer of 2017 and would last approximately two months
- Phase 2 includes the excavation and regrading of the lower field and would occur during the summer of 2018 and last approximately two months
- Phase 3 includes the construction of the trail and would occur during the summer and fall of 2017 and fall of 2018 and last one to two months.
- The Project, once constructed, should have little to no emissions from operations (similar to the existing infrastructure at the site). Therefore, operations emissions estimates were not included in this analysis.

The results of the CalEEMod are enumerated in Table 3.3-3 and form the basis for the impact assessment in this section. All predicted maximum daily unmitigated project emissions estimates are below the NSAQMD level A thresholds except for NO_x during the summer of 2018. Based on the results of the model, NO_x unmitigated emission estimates are within the NSAQMD Level B significance thresholds. This is likely due to emissions generated from off-road equipment during the grading and excavation of contaminated soil during the regrading of the lower field.

In order to reduce potential impacts from NO_x emissions, the South Coast Air Quality Management District (SCAQMD) has established quantifiable mitigation measures. The NSAQMD has not established recommended mitigation measures, thus for the purpose of identifying quantifiable success criteria, the SCAQMD mitigation measure were used for this analysis. These measures provide percent reduction based on specific mitigation (Table 3.3-4). With the implementation of Mitigation Measure AIR-1, all predicted Project emissions shall be reduced to below NSAQMD Level A significance thresholds.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.3-3 Project CalEEMod Predicted Maximum Daily Unmitigated Project Emissions Estimates

	ROG	NO _x	CO	PM ₁₀	PM _{2.5}
Project Unmitigated Construction Emissions (lbs/day)	5.15	51.17	40.23	10.18	6.48
NSAQMD Level A Significance Thresholds (lbs/day)	<24	<24	n/a	<79	n/a
NSAQMD Level B Significance Thresholds (lbs/day)	25-136	25-136	n/a	80-136	n/a
NSAQMD Level C Significance Thresholds (lbs/day)	≥137	≥137	n/a	≥137	n/a
Exceed Level A Threshold	No	Yes	n/a	No	n/a
Exceed Level B Threshold	No	No	n/a	No	n/a
Exceed Level C Threshold	No	No	n/a	No	n/a

Table 3.3-4 Project Mitigation Measure AIR-2 Percentage Reduction of Pollutants

Mitigation Measure AIR-1	Percentage Reduction				Source
	NO _x	ROG	PM ₁₀	PM _{2.5}	
A minimum of 50 percent of off-road heavy-duty (i.e., 50 horsepower, or greater) diesel fueled construction equipment shall, at a minimum, meet CARB's Tier 3 certified engine standards. Cleaner off-road heavy-duty diesel engines (e.g., Tier 4) should be used to the extent feasible and available.	59%	82%	20%	20%	South Coast Air Quality Management District, 2010, Off-Road Emission Rates & Comparison of Uncontrolled to Tiered Rates and Tiered to Tiered Rates
Total % Reduction	59%	82%	20%	20%	

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.3-5 CEQA Checklist for Assessing Project-Specific Potential Impacts to Air Quality

III. AIR QUALITY: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute to an existing or Projected air quality violation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) Would the Project conflict with or obstruct implementation of the applicable air quality plan?

Finding: Less than significant with mitigation incorporated

The Nevada County General Plan and the NSAQMD have adopted goals and rules intended to improve air quality in Nevada County and the air basin as a whole. Nevada County is in non-attainment for State and Federal ozone and State PM₁₀. The proposed Project applicable goals and rules of Nevada County and the NSAQMD are listed above in the regulatory framework of this section.

In order to assess the proposed Project's potential to obstruct implementation of the NSAQMD air quality plans, localized criteria pollutant emissions were analyzed, as these are the pollutants with established ambient air quality standards. Potential localized impacts would include exceedances of state or federal standards for PM and ozone.

Air quality modeling was performed using Project-specific details in order to determine whether the proposed Project would result in criteria air pollutant emissions in excess of the applicable thresholds of significance. Presented in Table 3.3-4, the proposed Project's construction- and operations-related emissions have been estimated using CalEEMod. The results of the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

unmitigated emissions modeling were compared to the NSAQMD standards of significance, summarized in Table 3.3-3, in order to determine the associated level of impact.

During construction of the proposed Project, various types of equipment and vehicles would temporarily operate on the proposed Project site. Construction exhaust emissions would be generated from construction equipment, earth movement activities, construction workers' commutes, and construction material hauling for the entire construction period. The aforementioned activities would involve the use of diesel- and gasoline-powered equipment that would generate emissions of criteria pollutants, such as ROG and NO_x which leads to the creation of ozone emissions. Project construction activities also represent sources of fugitive dust, which includes PM₁₀ emissions. PM₁₀ is of heightened concern during the proposed Project due to elevated arsenic levels found in the soil throughout the lower field and the sediments in Little Deer Creek. In order to reduce potential impacts from fugitive dust and potential inhalation of contaminated dust, Mitigation Measure AIR-1: Dust Control Measures would be implemented. Mitigation Measure AIR-1 includes measures to wet contaminated soils prior to any excavation or grading activities and throughout earth moving activities. Additionally, stockpiled soil would be covered and surrounded by appropriate BMP, e.g. wattles, etc.

Although the proposed Project shall temporarily cause localized increases in emission levels, the Project is in compliance with the NSAQMD Level A significant thresholds for all criteria pollutants except for NO_x emissions (Table 3.3-3, CalEEMod 2013). Unmitigated project related NO_x emissions would exceed the NSAQMD Level A significance threshold and result in a potentially significant impact. Therefore, Mitigation Measure AIR-1 shall be implemented to reduce air emissions impacts to less than Level A significance thresholds. The proposed Project construction will take approximately 60 days during the summer of 2017 and 60-120 days during the summer 2018, increases to criteria pollutants will be temporary and minimal. Additionally, CARB has adopted regulations to control emissions from portable equipment as a component of the state's air quality plans. All applicable portable engines and off-road equipment must be registered with CARB's portable engine and off-road equipment programs and would align with the requirements set forth in the attainment plans. In order to control emissions from portable equipment Mitigation Measure AIR-2: Implement BMPs to Reduce Impacts on Air Quality from Construction Equipment would be implemented to reduce equipment idling times and ensure properly maintained equipment.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.3-6 Project CalEEMod Predicted Maximum Daily Project Emissions Estimates with Mitigation Measure AIR-2 Implemented

	ROG	NO _x	CO	PM ₁₀	PM _{2.5}
Project Unmitigated Construction Emissions (lbs/day)	5.15	51.17	40.23	10.18	6.48
Project Construction Emissions with Mitigation Incorporated (lbs/day)	2.11	9.21	40.23	8.14	5.18
NSAQMD Level A Significance Thresholds (lbs/day)	<24	<24	n/a	<79	n/a
NSAQMD Level B Significance Thresholds (lbs/day)	25-136	25-136	n/a	80-136	n/a
NSAQMD Level C Significance Thresholds (lbs/day)	≥137	≥137	n/a	≥137	n/a
Exceed Level A Threshold	No	No	n/a	No	n/a
Exceed Level B Threshold	No	No	n/a	No	n/a
Exceed Level C Threshold	No	No	n/a	No	n/a

Operations will be similar to existing facilities, no new facilities or operations are proposed as part of the Project.

Therefore, construction of the proposed Project will be consistent with the goals of the NSAQMD through the implementation of Mitigation Measure AIR-1 and Mitigation Measure AIR-2. Impacts are considered less than significant with mitigation incorporated.

b) Would the Project violate any air quality standard or contribute to an existing or projected air quality violation?

Finding: Less than significant with mitigation incorporated

As discussed above, Nevada County is currently in non-attainment for State and Federal ozone and State PM₁₀. As a result, an incremental increase in background ozone or PM levels would be considered a significant impact. The proposed Project is in compliance with NSAQMD Level A thresholds of significance for all criteria pollutants except for NO_x, for which the Project is in compliance with NSAQMD Level B thresholds. Phase 1 of the Project would take approximately 60 days to complete during the summer of 2017 and Phase 2 and 3 would take approximately 90 to 120 days to complete during the summer and fall of 2018. Increases in NO_x would occur during construction activities, especially during the regrading of the lower field during Phase 2 of



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

the Project. All Project emissions would be temporary, as there is no change in the current operations at the Project site.

Because Project construction activities will exceed the NSAQMD Level A NO_x thresholds, Mitigation Measure AIR-2 shall be implemented. This mitigation measure will include restrictions on construction equipment idling times and require that all equipment is maintained and properly tuned during construction of the proposed Project. Operation activities will be similar to existing conditions; therefore, no long-term impacts to air quality would occur. Potential impacts to air quality standards or contribution to an existing or projected air quality violation are considered less than significant with Mitigation Measure AIR-2 incorporated.

c) *Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?*

Finding: Less than significant with mitigation incorporated

A cumulative impact analysis considers a project over time in conjunction with other past, present, and reasonably foreseeable future projects whose impacts might compound those of the project being assessed. Air pollution is largely a cumulative impact. The nonattainment status of regional pollutants, including ozone and PM, is a result of past and present development, and, thus, cumulative impacts related to these pollutants could be considered cumulatively significant. All predicted maximum daily unmitigated project construction emissions estimates are below the NSAQMD thresholds except for NO_x, which will temporarily increase above Level A thresholds (Table 3.3-3, CalEEMod 2013). As such, Mitigation Measure AIR-2 would be implemented to reduce NO_x emissions during construction activities. In addition, the proposed project would be required to comply with all applicable NSAQMD rules and regulations. The operations of the proposed Project will be similar to existing conditions and it is not anticipated that there would be a long-term cumulative impact. Therefore, the proposed project's individual emissions would not be expected to result in a cumulatively considerable contribution to a significant cumulative impact, and impacts would be considered less than significant with mitigation incorporated.

d) *Would the Project expose sensitive receptors to substantial pollutant concentrations?*

Finding: Less than significant with mitigation incorporated

The proposed Project construction involves operating heavy equipment and construction activities that would temporarily produce additional dust and air emissions. The nearest receptor in the vicinity of the proposed Project area that could be affected by construction generated air emissions are residences located along the western boundary of the lower field, approximately 50 to 100 feet from construction. In addition, the playground and pool are located on the south boundary of the lower field, approximately 50 feet from construction activities. Some land uses are considered more sensitive to air pollution than others due to the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

types of population groups or activities involved. Heightened sensitivity may be caused by health problems, proximity to the emissions source, and/or duration of exposure to air pollutants. Children, pregnant women, the elderly, and those with existing health problems are especially vulnerable to the effects of air pollution. Accordingly, land uses that are typically considered to be sensitive receptors include residences, schools, childcare centers, parks/playgrounds, retirement homes, convalescent homes, hospitals, and medical clinics.

Fugitive Dust

Fugitive dust is typically generated during earth moving activities such as grading and excavation. Fugitive dust can cause health concerns when airborne due to potential inhalation. Fugitive dust is especially a concern for the proposed Project due to the elevated arsenic levels found in the soil throughout the Project site. In order to minimize potential impacts from fugitive dust, Mitigation Measure AIR-1 will be implemented, which includes measures to wet down soil during any earthmoving activities, this will inhibit the soils from becoming airborne and alleviate the potential risk of inhalation.

Localized CO Emissions

Localized concentrations of CO are related to the levels of traffic and congestion along streets and at intersections. Implementation of the proposed project would temporarily increase traffic volumes on streets near the project site; therefore, the proposed project would be expected to increase local CO concentrations during construction. Concentrations of CO approaching the ambient air quality standards are only expected where background levels, traffic volumes, congestion levels are high. Although hauling and construction worker vehicle trips would increase during Project construction, it is not anticipated that these additional trips would cause congestion on local roadways nor would they affect the Level of Service (LOS) on the roadways.

Asbestos

The Project is not located in an area mapped as having, or otherwise known to have, ultramafic rock, serpentine, or naturally occurring asbestos. Therefore, the statewide Asbestos Airborne Toxic Control Measures (ATCM) will not apply unless ultramafic rock/serpentine is discovered during grading or excavation. If ultramafic rock or serpentine is discovered, the NSAQMD must be notified no later than the following business day and the ATCMs will apply. The nearest ultramafic mapping unit is approximately 5.5 miles to the west of the Project (Saucedo and Wagner 1992).

As discussed above, the proposed project would not cause or be exposed to substantial pollutant concentrations, including localized CO or fugitive dust. Therefore, exposure of sensitive receptors to substantial pollutant concentrations would not occur and the impact is less than significant with mitigation incorporated.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

e) **Would the Project create objectionable odors affecting a substantial number of people?**

Finding: Less than significant

Odors are generally regarded as an annoyance rather than a health hazard. Due to the subjective nature of odor impacts, the number of variables that can influence the potential for an odor impact, and the variety of odor sources, quantitative methodologies to determine the presence of a significant odor impact do not exist. According to the CARB's Handbook, some of the most common sources of odor complaints received by local air districts are sewage treatment plants, landfills, recycling facilities, waste transfer stations, petroleum refineries, biomass operations, autobody shops, coating operations, fiberglass manufacturing, foundries, rendering plants, and livestock operations. The project site is not located near any such land uses, and the proposed project would not introduce any such land uses.

Diesel fumes from construction equipment are often found to be objectionable; however, construction is temporary and associated diesel emissions would be regulated per federal, state, and local regulation, including compliance with all applicable NSAQMD's rules and regulations, which would help to control construction-related odorous emissions. Therefore, construction of the proposed project would not be expected to create objectionable odors affecting a substantial number of people and impacts would be considered less than significant.

3.3.4 Mitigation

Mitigation Measure AIR-1: Dust and Emissions Control Plan

The City of Nevada City shall require that the selected contractor prepare and implement a Project Dust and Emissions Control Plan that is approved by the NSAQMD prior to construction. The following shall be conducted throughout the construction period to limit and control dust and air emissions:

- All material excavated, stockpiled, or graded shall be sufficiently watered, treated, or covered to prevent fugitive dust from leaving the property boundaries and/or causing a public nuisance. Watering during summer months should occur at least three times daily, with complete coverage of disturbed areas.
- All areas with vehicle traffic shall be watered or have dust palliative applied as necessary to minimize dust emissions.
- All on-site vehicle traffic shall be limited to a speed of 15 mph on unpaved roads.
- All land clearing, grading, earth moving, or excavation activities on the project shall be suspended as necessary to prevent excessive windblown dust when winds are expected to exceed 20 mph.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- All inactive portions of the development site (i.e sites that are not being actively graded or worked in on a daily basis) shall be covered, seeded, or watered or otherwise stabilized until a suitable cover is established.
- All material transported off-site shall be either sufficiently watered or securely covered to prevent it from being entrained in the air and there must be a minimum of six (6) inches of freeboard in the bed of the transport vehicle.
- Paved streets adjacent to the project shall be reasonably clean through methods such as sweeping or washing at the end of each day, or more frequently if necessary, to remove excessive accumulations or visibly raised areas of soil which may have resulted from activities at the project site.
- Prior to the end of construction, the applicant shall re-establish ground cover on the site through seeding and watering.
- The Project contractor shall ensure that all construction equipment is properly maintained.
- Employ best management construction practices to avoid unnecessary emissions (e.g., trucks and vehicles in loading and unloading queues would turn their engines off when not in use). Vehicle and equipment idling shall not be allowed to exceed five minutes.
- Encourage construction worker commuters to carpool or employ other means to reduce trip generation.

Mitigation Measure AIR-1 Implementation

Responsible Party: The City of Nevada City will require that the contractor prepare and implement a Construction Emissions and Dust Control Plan. Nevada City shall be responsible for ensuring that all adequate dust control measures are implemented in a timely manner during all phases of project development and construction by the contractor. This mitigation measure will be referenced in the plans and specifications bid for the proposed project.

Timing: An Emissions and Dust Control Plan must be prepared and approved by the NSAQMD and Nevada City prior to construction and implemented during all phases of grading and activities that generate dust.

Monitoring and Reporting Program: During construction, regular inspections will be performed by a Nevada City representative and reports will be kept on file by Nevada City for inspection by the NSAQMD or other interested parties.

Standards for Success: Visible emissions and dust are kept to the lowest practicable level during construction periods. The goal is to minimize dust and emissions during construction, and to the extent feasible, complaints from the public.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Mitigation Measure AIR-2: Implement BMPs and Clean Construction Equipment Strategies to Reduce Impacts on Air Quality from Construction Equipment

The following mitigation measures shall be implemented to ensure emissions generated during proposed project construction activities are maintained at regulatory levels by requiring the following actions by the construction contractor:

- A minimum of 50 percent of off-road heavy-duty (i.e., 50 horsepower, or greater) diesel fueled construction equipment shall, at a minimum, meet CARB's Tier 3 certified engine standards. Cleaner off-road heavy-duty diesel engines (e.g., Tier 4) should be used to the extent feasible and available.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation;
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

Mitigation Measure AIR-2 Implementation

Responsible Party: The City of Nevada City would require that the contractor implement Air Quality BMPs during construction activities. This mitigation measure will be referenced in the plans and specifications bid for the proposed project.

Timing: Air Quality BMPS would be implemented prior to and during construction activities.

Monitoring and Reporting Program: During construction, regular equipment inspections will be performed by a Nevada City representative and reports will be kept on file by Nevada City for inspection by the NSAQMD or other interested parties.

Standards for Success: Minimize construction vehicle exhaust.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.4 BIOLOGICAL RESOURCES

The Biological Resources section discusses the potential impacts of the proposed Little Deer Creek Restoration and Flood Mitigation Project to biological resources within, adjacent to, and downstream of the proposed Project area. Biological resources refer to plant and wildlife species and their related habitats. The regulatory setting describes applicable laws and regulations administered by the federal, state, and local governing bodies to protect biological resources. The environmental setting provides general information on the biological communities and resources within and surrounding the proposed Project area. The impact analysis evaluates the potential impacts of the proposed Project on those biological resources.

3.4.1 Regulatory Setting

Federal, state, county, city and other local agencies require the protection of plant and wildlife species, their habitats, and other biological resources. The regulatory setting outlines the laws and regulations relevant to the actions proposed for the Little Deer Creek Restoration and Flood Mitigation Project.

3.4.1.1 Federal Regulations

3.4.1.1.1 Federal Endangered Species Act of 1973

The Federal Endangered Species Act (ESA) was passed by Congress in 1973 to protect and recover imperiled species and the habitats upon which they depend. The ESA is administered by the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA), which includes the National Marine Fisheries Service (NMFS).

Under the ESA, protected species are either listed as “endangered,” in danger of extinction throughout all or a significant region of the species range; or as “threatened,” likely to become endangered within the foreseeable future. The ESA also designates “candidate” species as those plants and animals for which the USFWS has sufficient data to propose that they be listed as threatened or endangered, but for which development of a listing regulation is temporarily precluded by other, higher priority listing activities. Candidate species do not receive statutory protection under the ESA, but cooperative conservation activities are encouraged (USFWS 2015a).

Pursuant to the Federal ESA, the USFWS and NMFS have authority over projects that may affect the continued existence of a federally listed threatened or endangered species. Section 9 of the ESA and federal regulations prohibit the take of federally listed species. “Take” is defined under the ESA, in part, as killing, harming, or harassing. Under federal regulations, take is further defined to include habitat modification or degradation where it actually results or is reasonably expected to result in death or injury to wildlife by significantly impairing essential behavioral patterns including breeding, feeding, or sheltering (USFWS 2015a).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

In cases where a project action may affect a federally listed threatened or endangered species or its habitat, Sections 7 and 10 of the ESA require consultation with the USFWS and/or NMFS. Section 7 of the ESA outlines procedures for federal interagency cooperation to conserve federally-listed species and designated critical habitat and to ensure that federal agencies are not undertaking, funding, permitting, or authorizing actions likely to jeopardize the continued existence of listed species. For projects where federal action is not involved and take of a listed species may occur, Section 10(a) of the ESA outlines procedures for consultation with USFWS and/or NMFS, in which a project proponent may seek to obtain an incidental take permit if project impacts are adequately minimized and mitigated by an agency-approved Habitat Conservation Plan (HCP) (USFWS 2015a).

3.4.1.1.2 Migratory Bird Treaty Act of 1918 and the Bald and Golden Eagle Protection Act

The Migratory Bird Treaty Act (MBTA) (16 USC C Section 703-711) and the Bald and Golden Eagle Protection Act (BAGEPA) (16 USC Section 668) protect specific species of birds and prohibit “take” (i.e., harm or harassment). Both the MBTA and BAGEPA are administered by the USFWS, who review the actions that may affect the species protected. Specifically, the MBTA protects migratory bird species from “take” through the setting of hunting limits and seasons, and protecting occupied nests and eggs. Permits for take of nongame migratory birds can be issued only for specific activities, such as scientific collecting, rehabilitation, propagation, education, taxidermy, and protection of human health and safety and personal property. BAGEPA prohibits the take or commerce of any part of the bald or golden eagle (USFWS 2015b).

3.4.1.1.3 Clean Water Act Section 401

The U.S. Environmental Protection Agency (EPA) regulates surface water quality in waters of the United States (U.S.) under Section 401 of the federal Clean Water Act (CWA). Section 401 of the Clean Water Act, projects that apply for a federal permit for discharge of dredged or fill material into waters of the U.S. must also obtain water quality certification from the Regional Water Quality Control Board (RWQCB) indicating that the project would uphold water quality standards set forth by the state and by the EPA. Section 401 of the Clean Water Act provides that no federal permits or licenses may be issued for projects that may discharge into waters of the U.S. unless a Water Quality Certification is obtained (EPA 2010). By providing this opportunity to address the aquatic resource impacts of federally issued permits and licenses, a water quality certification provides states and authorized tribes with an effective tool to help protect the physical, chemical, and biological integrity of surface water quality (EPA 2015b). Section 404 of the Federal Clean Water Act (CWA) establishes a requirement for a project applicant to obtain a permit from the U.S. Army Corps of Engineers (USACE) before engaging in any activity that involves any discharge of dredged or fill material into Waters of the U.S. including wetlands, lakes, rivers, streams, and their tributaries. Wetlands are defined as those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (33 CFR 328.3, 40 CFR 230.3). Jurisdictional



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

wetlands must meet three wetland delineation criteria: hydrophytic vegetation, hydric soil types, and wetland hydrology. Many surface waters and wetlands in California meet the criteria for waters of the U.S., including intermittent streams and seasonal lakes and wetlands. Fill is defined as any material that replaces any portion of a water of the U.S. with dry land or changes the bottom elevation of any portion of a water of the U.S. (EPA 2010).

3.4.1.2 State Regulations

3.4.1.2.1 California Endangered Species Act

Pursuant to the California Endangered Species Act (CESA), a permit from California Department of Fish and Wildlife is required for projects that could result in take of a species that is listed by the state as threatened or endangered (California Fish and Game Code [CFG Code] Section 2050 *et seq.*). The CESA prohibits take of state-listed threatened and endangered species. Under CESA, "take" is defined as any activity that would directly or indirectly kill an individual of a species. However, the definition does not include "harm" or "harass" as in the federal ESA, nor does it include protection against habitat destruction (CDFW 2016a).

Consultation ensures that proposed projects or actions do not have a negative effect on state-listed species. During consultation, CDFW determines whether take will occur and identifies "reasonable and prudent alternatives" for the project and conservation of special-status species. CDFW can authorize take of a state-listed species under Sections 2080.1 and 2081 (b) of CFG Code in those cases where it is demonstrated that the impacts are minimized and mitigated. Take authorized under section 2081 (b) must be minimized and fully mitigated. A CESA permit must be obtained if a project will result in the take of listed species, either during construction or over the life of the project. CDFW also maintains lists for Candidate-Endangered Species and Candidate-Threatened Species. California Candidate Species are afforded the same level of protection as listed species. California also designates Species of Special Concern (SSC), which are species of limited distribution, declining populations, diminishing habitat, or unusual scientific, recreational, or educational values. These species do not have the same legal protection as listed species, but may be added to official lists in the future (CDFW 2016a).

In the 1960's California also created a designation to provide additional protection to rare species. This designation remains today and is referred to as "Fully Protected" species, and those listed "may not be taken or possessed at any time." In the 1970's, California created a designation to provide additional protection to rare species (i.e., the Native Plant Protection Act below). These species do not carry formal legal status and/or designation, but may be officially listed in the future (CDFW 2016a).

3.4.1.2.2 California Fish and Game Code Sections 3503, 3503.5, 3513, and 3800 – Protection of Birds

Sections 3503, 3503.5, and 3800 of the CFG Code prohibit the take, possession, or destruction of birds, their nests or eggs. Implementation of the take provisions requires that project-related disturbance at active nesting territories be reduced or eliminated during critical phases of the nesting cycle. Disturbances that cause nest abandonment and/or loss of reproductive effort



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

(e.g., killing or abandonment of eggs or young) or the loss of habitat upon which the birds depend is considered "taking" and is potentially punishable by fines and/or imprisonment (CLI 2016a). Such taking would also violate federal law protecting migratory birds (e.g., MBTA above).

In addition, these statutes prohibit the destruction of active nests by removing the vegetation in which the nests are located. They prohibit the disturbance of parental behavior relative to nest survival, as construction and other activities can result in nest abandonment, reduced rates of parental food deliveries to the nest, and/or an increased risk of nest predation. Disturbance that causes nest abandonment, the loss of eggs or young, and/or the loss of habitat upon which nesting birds depend, is considered illegal "take" (CLI 2016a).

3.4.1.2.3 The Native Plant Protection Act- CFG Code Section 1900 *et seq.*

The Native Plant Protection Act (NPPA) was enacted in 1977 and is administered by CDFW pursuant to Section 1900 *et seq.* of the CFG Code. The NPPA prohibits "take" of endangered, threatened, or rare plant species native to California, with the exception of special criteria identified in the statute. A "native plant" means a plant growing in a wild, uncultivated state which is normally found native to the plant life of the state. Under the NPPA, species become endangered, threatened, or rare when the plants' prospects of survival and reproduction are in immediate jeopardy for one or more causes (CDFW 2016b). "Rare" species can be defined as species that are: broadly disturbed but never abundant where found, narrowly disturbed or clumped yet abundant where found, and/or narrowly disturbed or clumped and not abundant where found. If potential impacts are identified for a proposed project activity, consultation with CDFW, permitting, and/or other mitigation may be required. Endangered, threatened, and/or rare species can be identified through the California Native Plant Society's (CNPS) California Rare Plant Ranks (CNPS 2016a).

3.4.1.2.4 California Environmental Quality Act- CFG Code Section 15380

The California Environmental Quality Act (CEQA) provides protection for federal- and/or state-listed species, as well as species not listed federally or by the state that may be considered rare, threatened, or endangered. If the species can be shown to meet specific criteria for listing outlined in CEQA Guidelines section 15380 (b). Species that meet these criteria can include "candidate species", species "proposed for listing" and "species of special concern". Plants appearing on CNPS CRPR are considered to meet CEQA's Section 15380 criteria. Impacts to these species would therefore be considered "significant" requiring mitigation (CDFW 2016c).

Section 15380 was included to address a potential situation in which a public agency is to review a project that may have a significant effect on, for example a "candidate species", which has not yet been listed by the USFWS or CDFW. Therefore, CEQA enables an agency to protect a species from significant project impacts until the respective government agencies have had an opportunity to list the species as protected, if warranted (CDFW 2016c).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.4.1.2.5 California Oak Woodlands Conservation Act- CFG Code Sections 1360-1372

The California Oak Woodland Conservation Act (COWCA) defines an oak as “any species in the genus *Quercus*” (CLI 2016b). The COWCA defines an oak woodland as “an oak stand with greater than ten percent canopy cover, or that may have historically supported greater than ten percent canopy cover” (CLI 2016b). The COWCA is designed to “support and encourage voluntary, long-term private stewardship and conservation of California’s oak woodlands by offering landowners financial incentives to protect and promote biologically functional oak woodlands over time” (CLI 2016b); as mandated by the Wildlife Conservation Board (WCB). The WCB has established grant programs, the California Oak Woodlands Conservation Program, designed to protect and restore oak woodlands using conservation easements, cost-share and long-term agreements, technical assistance and public education and outreach.

3.4.1.2.6 Lake and Streambed Alteration Agreement- CFG Code Sections 1600-1616

To protect, manage, and conserve California’s wetlands, Sections 1600–1616 of the CFG Code states that it is unlawful for any person or agency to substantially divert, obstruct or change the natural flow of any river, stream, or lake in California that supports wildlife resources, without first notifying CDFW of such activity and entering into a Streambed Alteration Agreement (SAA) with CDFW if impacts are expected to occur. These statutes similarly prohibit the use any material from the streambed; the deposition of any debris, waste or construction material where it may pass into any river, stream, or lake; or any other action that would substantially change the bed, channel, or bank of a river, stream, or lake (CDFW 2016d). For the purposes of these regulations, the definition of a stream is a body of water that flows at least periodically or intermittently through a bed or channel having banks and that supports wildlife, fish or other aquatic life. This includes watercourses that have surface or subsurface flows that support or have supported riparian vegetation. CDFW’s jurisdiction within altered or artificial waterways is based upon the value of those waterways to fish and wildlife. In practice, CDFW jurisdiction typically extends to the top of the stream or lake bank, the outer edge of the riparian vegetation (where present), and/or the edge of the 100-year floodplain (CDFW 2016d).

3.4.1.2.7 Porter-Cologne Water Quality Control Act-Section 401 of the Clean Water Act and National Pollutant Discharge Elimination System

Waters of the State are regulated by the RWQCB under the State Water Quality Certification Program, which regulates discharges of dredged and fill material under Section 401 of the CWA and the Porter-Cologne Water Quality Control Act. Waters of the State are defined as “any surface water or groundwater, including saline waters, within the boundaries of the state.” Section 401 requires that an applicant for a federal license or permit that allows activities resulting in a discharge to Waters of the U.S. must obtain a state certification administered by the RWQCB that the discharge complies with other provisions of CWA. The RWQCB protects all waters in its regulatory scope, but has special responsibility for isolated wetlands and headwaters that may not be regulated by other programs, such as Section 404 of the CWA. Projects that require a Section 404 CWA permit, or fall under other federal jurisdiction, and have the potential to impact waters of the State are required to comply with the terms of the Section



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

401 Water Quality Certification Program. If a proposed project does not require a federal license or permit, but does involve activities that may result in a discharge of harmful substances to waters of the State, the RWQCB has the option to regulate such activities under its State authority in the form of Waste Discharge Requirements or Certification of Waste Discharge Requirements (SWRCB 2016).

3.4.1.3 Local Regulations

3.4.1.3.1 Oak Woodlands Conservation Law

Effective January 1, 2005, Senate Bill 1334 (Kuehl) established Public Resources Code, Section 21083.4, the state's first oak woodlands conservation standards for California Environmental Quality Act processes. This code requires counties (or proposed County associated Project activities such as the issuance of a grading permit) to determine whether or not a Project may cause a significant effect or conversion of oak woodlands. In addition, if a County determines a Project will significantly affect oak woodlands, the Project proponent must employ one or more of the following CEQA Oak Woodlands Mitigation Alternatives (CLI 2016a):

- Conserve oak woodlands through the use of conservation easements.
- Plant an appropriate number of trees, including maintaining plantings and replacing dead or diseased trees.
- Contribute funds to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, for the purpose of purchasing oak woodlands conservation easements.
- Other mitigation measures developed by the county.

This law states that County actions resulting in the loss of oak trees five inches or more in diameter at breast height (DBH) will be subject to compensatory mitigation measures. Oaks less than five inches DBH will still be subject to conservation measures contained in county ordinances or general plans.

3.4.1.3.2 Nevada City General Plan

The following goal and objective regarding biological resources are set forth in the Community Goals Element of the Nevada City General Plan:

- Preserve and enhance the important natural features, e.g., Sugarloaf, the ridges, the creeks, Gold Run, the hills within the city, and the steep terrain lying west of the city core.
 - Develop and implement a program to secure special easements to protect streamside zones as potential open space or pedestrian/tike trails, wildlife habitat, and permanent open space.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- Discourage tree cutting within the city. (The Open Space District in the zoning ordinance provides some measure of control in this area.)
- Prevent soil erosion and hillside scarring through control of grading, restrictions on removal of vegetation, and limitation of development on steep slopes.

3.4.2 Environmental Setting

3.4.2.1 Regional Setting

The proposed Project is located at Pioneer Park within the incorporated area of the City of Nevada City, in western Nevada County, California, on the western slope of the Sierra Nevada. Elevations at the site range from approximately 2,480 to 2,500 feet (1,035 to 1,100 meters) above mean sea level. The proposed Project is located in the Nevada City U.S. Geological Survey (USGS) 7.5 minute quadrangle (quad) within Township 16 North, Range 9 East, Section 7. The longitude/latitude at the approximate center of the proposed work area is 39°15'36.4"N/121°00'37.8"W.

Average annual precipitation in the Little Deer Creek watershed is approximately 53.9 inches. Regional average annual snowfall is approximately 21 inches. Air temperatures in the region range between an average January high of 50 °F, and an average July high of 89 °F. The year-round average high is approximately 68 °F. The average January low is 30 °F, and the average July low is 53 °F. The year-round average low is approximately 40 °F (NOAA 2010).

The proposed Project is located on Little Deer Creek, a perennial stream within the South Yuba River watershed. Little Deer Creek originates north of Banner Mountain and south of Lower Scott's Flat Reservoir, in the rural residential region east of downtown Nevada City. After flowing through Pioneer Park and the proposed Project area, Little Deer Creek joins Deer Creek in downtown Nevada City.

Park Avenue and residential properties are located along the north boundary of Pioneer Park and the proposed Project area. The eastern boundaries are also occupied by existing residential development and support through way traffic and parking. Other existing portions of Pioneer Park are located south of the proposed Project site. Residential properties and Nimrod Street comprise the western boundary of the proposed Project site at Pioneer Park.

The proposed Project area is within a landscaped environment with heavy recreational use in riparian areas resulting in soil compaction and erosion along stream banks. High densities of non-native invasive plants and alteration of the hydrology and floodplain impact the site's ability to support mesic meadow, seep, marsh or high-quality riparian habitat for plants. Adjacent mixed conifer forests have also been impacted by heavy recreational use resulting in soil compaction, erosion, and non-native invasive plants, although to a lesser degree than in the riparian areas. Little to no construction will occur in these areas except some work along a currently paved trail. Field turf, asphalt and buildings are prominent in the southern portion of the project area, limiting areas of potential habitat. Gabbro and/or serpentine soils are not present on site.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.4.2.2 Biological Communities

The CDFW and the CNPS have developed a standard classification system for floristically describing vegetation communities/ habitats statewide, further translating to the National Vegetation Classification (NVC). The CDFW and CNPS system has been compiled in A Manual for California Vegetation- Second Edition (Sawyer et al, 2009), and has been accepted and adopted by state and federal agencies. The MCV classifications assist in defining vegetation based on quantitatively based rules to distinguish between vegetation community types, local variation, ecological land classification/composition, species rarity and significance, and historical and current land management practices. The MCV defines vegetation communities by dominant and/or co-dominant species present as 1A) alliance- a broad unit of vegetation with discernible and related characteristics; 1B) provisional alliance- a temporary vegetation community and/or candidate alliance; and/or 2) association- a basic secondary unit of classification, not as broad as an alliance, with uniform composition and conditions. The MCV classifications replace lists of vegetation types developed for the California Natural Diversity Database. The biological communities in the proposed Project area have been classified using MCV standards.

3.4.2.2.1 White alder(*Alnus rhombifolia*) Forest Alliance

White alder(*Alnus rhombifolia*) Forest Alliance is dominant especially in the northern portion of the Project area along Little DeerCreek. It is co-dominant with other native trees including big-leaf maple (*Acer macrophyllum*) and Fremont's cottonwood (*Populus fremontii*); and shrubs including arroyo willow (*Salix lasiolepis*), red willow(*Salix laevigata*) and shiny willow(*Salix lucida*) (Sawyer et al, 2009). Co-dominant non-native trees include black locust (*Robinia pseudoacacia*) and English walnut (*Juglans regia*) which comprise up to 50% of the canopy in some portions of the northern Project area.

3.4.2.2.2 Shining willow (*Salix lucida*) Woodland Alliance

Shining willow Woodland Alliance is dominant within the riparian corridor on the eastern portion of the Project area along Little Deer Creek. Co-dominant species include arroyo willow and red willow (Sawyer et al. 2009).

3.4.2.2.3 Himalayan blackberry(*Rubus armeniacus*) Semi-natural Shrubland Stand

Due to the history of disturbance from creek realignment and the proximity of human infrastructure and activity to the riparian habitat, the understory shrub layer in the riparian area is dominated by non-native Himalayan blackberry(*Rubus armeniacus*) Semi-natural Shrubland Stand (Sawyer et al, 2009). Densities reach over 75% cover in the northern portion of the project area and up to 50% cover in the eastern portion of the Project area along Little Deer Creek. Himalayan blackberry has a High Invasive Species ranking from Cal-IPC, primarily due to its ability to invade riparian areas with up to 100% cover (Cal-IPC 2016).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.4.2.2.4 Ponderosa pine-incense cedar (*Pinus ponderosa- Calocedrus decurrens*) Forest Alliance

Plant communities extending out of the riparian corridor to paved surfaces and human infrastructure within the proposed Project area include mixed conifer forest habitat and ponderosa pine-incense cedar (*Pinus ponderosa- Calocedrus decurrens*) Forest Alliance. Associated species include black oak (*Quercus kelloggii*), Douglas-fir (*Pseudotsuga menziesii*), and Pacific mountain dogwood (*Cornus nuttallii*) (Sawyer et al, 2009). Although common in the Sierra foothills region, impacts from bark beetle (Family Scolytinae), mistletoe (*Phoradendron* sp.), and root disease mortality were not apparent in areas surrounding the proposed Project.

3.4.2.3 Methodology

The following methods were used to determine the presence or absence of special-status plant and wildlife species and other biological resources, and to evaluate their potential to be impacted by proposed Project activities.

3.4.2.3.1 Desktop Analysis

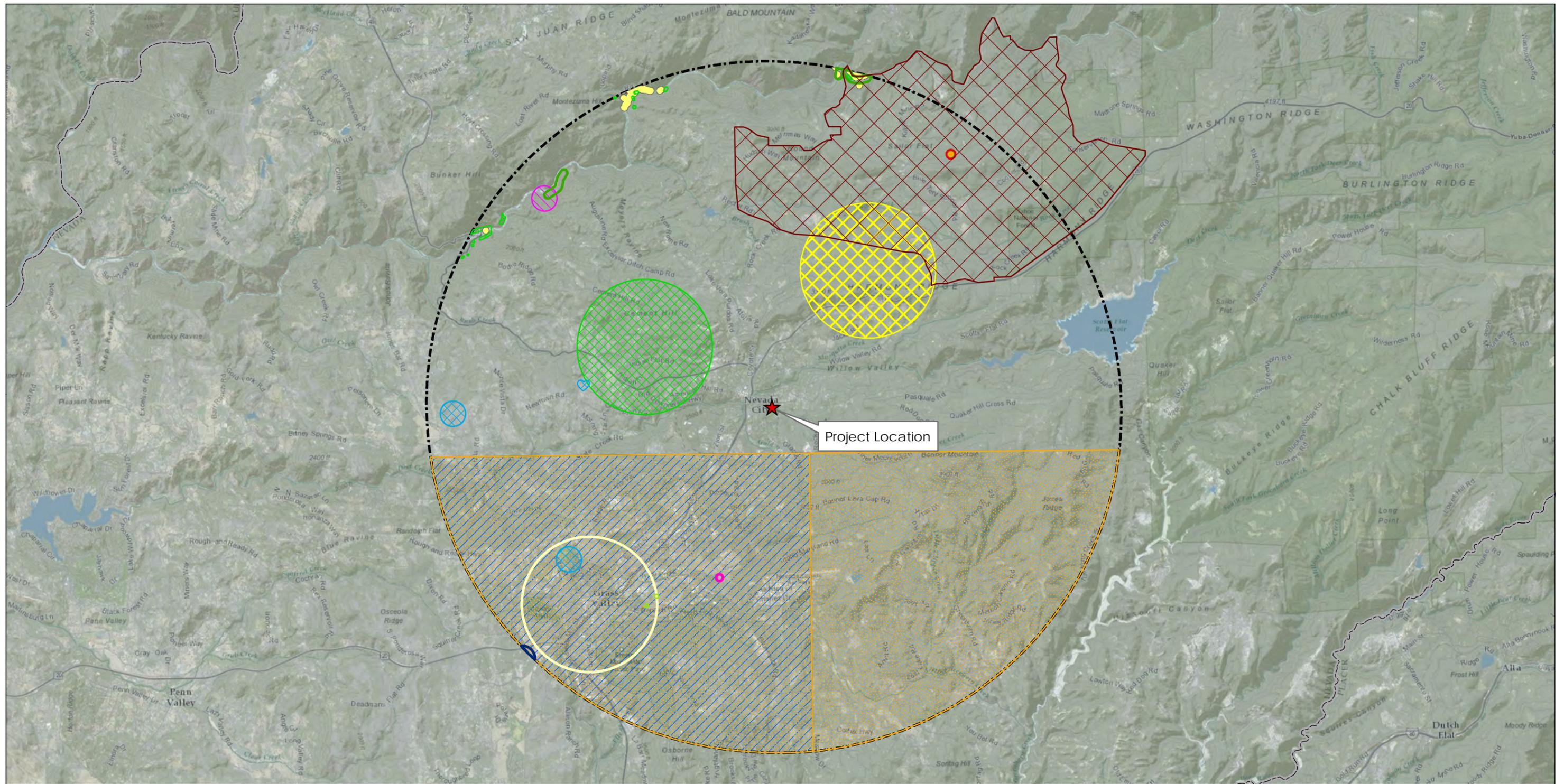
Prior to visiting the proposed Project area, background research and desktop analyses were conducted to evaluate regional and local habitats and to identify the biological resources that are known to occur or have the potential occur within the proposed Project area. The following resources were used to identify potential special-status plant and wildlife species within the proposed Project region.

- A records search of the CDFW California Natural Diversity Database (CNDDDB) for special-status species was performed within the proposed Project area and within a five mile buffer around the proposed Project area (CDFW 2016e, Figure 3.4.1).
- The CNPS online Inventory of Rare and Endangered Plants of California was queried in a nine-quad regional search for rare plants within Camptonville, Challenge, Chicago Park, French Corral, Grass Valley, Nevada City, North Bloomfield, Pike, Rough and Ready 7.5 minute USGS quads (CNPS 2016).
- The USFWS list of endangered, threatened, and candidate species and their designated critical habitat was reviewed for the nine USGS 7.5-minute quads surrounding the proposed Project site: Nevada City, Grass Valley, North Bloomfield, Chicago Park, Camptonville, Challenge, French Corral, Pike, and Rough and Ready (USFWS 2016a).
- The Calflora online database for Nevada County was reviewed for additional rare plant species with the potential to occur in the proposed Project area (Calflora 2016).
- The eBird database was reviewed for bird species observations in Pioneer Park and the surrounding residential neighborhood that were recorded by volunteer citizen scientists with known professional-level identification skills (leaders of the Audubon Society Breeding Bird Atlas for Nevada County) (eBird 2016).

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Endangered, threatened, rare, and/or special-status species that were identified during the initial desktop analysis are compiled in Tables 3.4-3 and 3.4-4 of the Results Section 3.4.2.4.



Legend

- 5 Mile Project Setback
- USFWS California red-legged frog Critical Habitat
- Special Status Species**
- Common Name, Scientific Name, Fed Listing, State Listing**
- Brandegee's clarkia, *Clarkia biloba ssp. brandegeae*, None, None
- Butte County fritillary, *Fritillaria eastwoodiae*, None, None

- California black rail, *Laterallus jamaicensis coturniculus*, None, Threatened
- California red-legged frog, *Rana draytonii*, Threatened, None
- Cantelov's lewisia, *Lewisia cantelovii*, None, None
- Pine Hill flannelbush, *Fremontodendron decumbens*, Endangered, Rare
- Scadden Flat checkerbloom, *Sidalcea stipularis*, None, Endangered
- brownish beaked-rush, *Rhynchospora capitellata*, None, None

- coast horned lizard, *Phrynosoma blainvillii*, None, None
- dubious pea, *Lathyrus sulphureus var. argillaceus*, None, None
- finger rush, *Juncus digitatus*, None, None
- foothill yellow-legged frog, *Rana boylei*, None, None
- western bumble bee, *Bombus occidentalis*, None, None
- western pond turtle, *Emys marmorata*, None, None

Figure No. 3.4.1
Known Occurrences of Special Status Species within Five Miles of the Proposed Project Area

Client/Project
 City of Nevada City
 Little Deer Creek
 Restoration and Flood Mitigation Project



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.4.2.3.2 Field Studies

Reconnaissance-level baseline biological field surveys and a formal wetland delineation were performed by Sierra Streams Institute staff: Restoration Ecologist/Botanist, Denise Della Santina and Wildlife Biologist, Kristen Hein Strohm. Surveys took place on May 2, June 15, and July 10, 2016. Field surveys were conducted to assess the general species composition of the on-site biological community, evaluate the extent and quality of the ecological habitats on site, and assess the potential for special-status species presence.

Surveys were conducted by walking meandering transects to view all areas of the proposed Project area. All distinct habitats occurring within the study area were characterized and evaluated for their potential to support regionally occurring special-status species and other sensitive biological resources. During these surveys, the study area was also examined to characterize the existing vegetation in terms of dominant plant and animal species (including the potential for special-status species), approximate canopy closure, and other constraints. The extent of past disturbance was also noted.

Boundaries of jurisdictional wetlands on site were delineated by SSI Restoration Ecologist/Botanist using the 1987 Corps of Engineers Manual (WTI 1995) and current updates. Following the wetland delineation fieldwork, SSI began consultation with the USACE to pursue federal verification of the wetland delineation and to pursue a Clean Water Act Section 404 permit, which must be acquired during agency environmental review and before Project construction. The results of the consultation will be presented in a separate document.

3.4.2.4 Results

3.4.2.4.1 Plant Communities

Past modifications of Little Deer Creek from local private and Park development and recreational activities have resulted in significant stream channel and floodplain impacts and biological habitat reduction. The current stream channel has a significant amount of concrete lining along the streambanks and the creek is squeezed between asphalt paved surfaces and graded areas of turf grass on fill soils. The reduced channel volume and riparian floodplain has resulted in minimal native riparian vegetation diversity and abundance. Stream bank vegetation varies from dense Himalayan blackberry understory stands (reaching well over 50% cover in the northern portion of the Project area) to compacted and eroded areas due to excessive foot traffic on incised, non-vegetated stream banks (reaching well over 25% cover in eastern portion of the Project area).

The riparian vegetation along the creek corridor is limited in width, less than 20 feet (6 meters) on each side of the creek in most areas. Dominant plant communities in the riparian areas include white alder Forest Alliance on the northern portion of the Project area and shining willow Woodland Alliance on the eastern portion. The understory shrub layer throughout the riparian area is dominated by non-native Himalayan blackberry. Semi-natural Shrubland Stand, which reaches 50% cover in at least half of the project area. Plant communities extending out of the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

riparian corridor to paved surfaces and human infrastructure within the proposed Project area include mixed conifer forest habitat and ponderosa pine-incense cedar Forest Alliance (Sawyer et al.2009). Other species within the project area include big-leaf maple, Fremont's cottonwood, arroyo willow, red willow, black oak, Douglas-fir, and Pacific mountain dogwood.

Non-native invasive species on site are turf/fodder grasses including Bermuda grass (*Cynodon dactylon*), Kentucky bluegrass (*Poa pratensis*), orchard grass (*Dactylis glomerata*), velvet grass (*Holcus lanatus*) and rescuegrass (*Bromus catharticus*). Periwinkle (*Vinca major*) is a dominant groundcover found throughout the proposed Project area in riparian areas and has densities in some areas over 50%. Non-native trees within the riparian corridor include black locust (*Robinia pseudoacacia*). Large black locust trees dominate the upper canopy in the northern portion of the creek and have created a shrub-like layer in some areas with dense sapling regeneration.

In 2003, as part of a previous Sierra Streams Institute restoration project, native species were planted along Little Deer Creek's riparian banks. Some of these plants still surviving on site include spicebush (*Calycanthus occidentalis*), Oregon ash (*Fraxinus latifolia*), creek/American dogwood (*Cornus sericea*), western redbud (*Cercis occidentalis*), ninebark (*Physocarpus capitata*), wood rose (*Rosa woodsia*) and mountain mahogany (*Cercocarpus betuloides*). Species planted on site are noted in Table 3.4.1.

A complete plant list of species observed during baseline biological field surveys/habitat assessments can be found in Table 3.4.1.

Table 3.4-1 Plant species observed on May 2 and July 10, 2016, during baseline biological field surveys and habitat assessment for the Little Deer Creek Restoration and Flood Control Project, Nevada County, California.

common name	Scientific name	Status
American pokeweed	<i>Phytolacca Americana</i>	Not FESA, CESA, or CNPS listed
arroyo willow	<i>Salix lasiolepis</i>	Not FESA, CESA, or CNPS listed
Baltic rush*	<i>Juncus balticus</i>	Not FESA, CESA, or CNPS listed
beaked hazelnut	<i>Corylus cornuta ssp. californica</i>	Not FESA, CESA, or CNPS listed
Bermuda grass	<i>Cynodon dactylon</i>	Not FESA, CESA, or CNPS listed
big leaf maple*	<i>Acer macrophyllum</i>	Not FESA, CESA, or CNPS listed
black oak	<i>Quercus kelloggii</i>	Not FESA, CESA, or CNPS listed
black locust	<i>Robinia pseudoacacia</i>	Not FESA, CESA, or CNPS listed
black mustard	<i>Brassica nigra</i>	Not FESA, CESA, or CNPS listed
box elder*	<i>Acer negundo</i>	Not FESA, CESA, or CNPS listed
California grape*	<i>Vitis californica</i>	Not FESA, CESA, or CNPS listed
California pipevine*	<i>Aristolochia californica</i>	Not FESA, CESA, or CNPS listed
California wood fern/shield fern	<i>Dryopteris arguta</i>	Not FESA, CESA, or CNPS listed
canyon live oak	<i>Quercus chrysolepis</i>	Not FESA, CESA, or CNPS listed



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

common name	Scientific name	Status
coffeeberry*	<i>Frangula californica</i>	Not FESA, CESA, or CNPS listed
common timothy grass	<i>Phleum pratense</i>	Not FESA, CESA, or CNPS listed
common buttonbrush *	<i>Cephalanthus occidentalis</i>	Not FESA, CESA, or CNPS listed
common dandelion	<i>Taraxacum officinale</i>	Not FESA, CESA, or CNPS listed
common plantain	<i>Plantago major</i>	Not FESA, CESA, or CNPS listed
creek/American dogwood*	<i>Cornus sericea</i>	Not FESA, CESA, or CNPS listed
cultivated apple	<i>Malus species</i>	Not FESA, CESA, or CNPS listed
curly dock	<i>Rumex crispus</i>	Not FESA, CESA, or CNPS listed
cut leaved blackberry	<i>Rubus laciniatus</i>	Not FESA, CESA, or CNPS listed
deerbrush*	<i>Ceanothus integerrimus</i>	Not FESA, CESA, or CNPS listed
dog rose	<i>Rosa canina</i>	Not FESA, CESA, or CNPS listed
Douglas fir	<i>Pseudotsuga menziesii</i>	Not FESA, CESA, or CNPS listed
English walnut	<i>Juglans regia</i>	Not FESA, CESA, or CNPS listed
field horsetail	<i>Equisetum arvense</i>	Not FESA, CESA, or CNPS listed
Fremont cottonwood*	<i>Populus fremontii</i> var. <i>fremontii</i>	Not FESA, CESA, or CNPS listed
garden burnet	<i>Poterium sanguisorba</i>	Not FESA, CESA, or CNPS listed
harding grass	<i>Phalaris aquatica</i>	Not FESA, CESA, or CNPS listed
hedgehog dogtail grass	<i>Cynosurus echinatus</i>	Not FESA, CESA, or CNPS listed
Himalayan blackberry	<i>Rubus armeniacus</i>	Not FESA, CESA, or CNPS listed
hoary coffeeberry*	<i>Frangula californica</i> ssp. <i>tomentella</i>	Not FESA, CESA, or CNPS listed
incense cedar	<i>Calocedrus decurrens</i>	Not FESA, CESA, or CNPS listed
Kentucky bluegrass	<i>Poa pratensis</i>	Not FESA, CESA, or CNPS listed
mountain mahogany*	<i>Cercocarpus betuloides</i>	Not FESA, CESA, or CNPS listed
mountain/pacific dogwood	<i>Cornus nuttallii</i>	Not FESA, CESA, or CNPS listed
narrow leaved plantain	<i>Plantago lanceolata</i>	Not FESA, CESA, or CNPS listed
narrow leaved/sandbar willow	<i>Salix exigua</i>	Not FESA, CESA, or CNPS listed
ninebark*	<i>Physocarpus capitata</i>	Not FESA, CESA, or CNPS listed
Norway maple	<i>Acer platanoides</i>	Not FESA, CESA, or CNPS listed
orchard grass	<i>Dactylis glomerata</i>	Not FESA, CESA, or CNPS listed
Oregon ash*	<i>Fraxinus latifolia</i>	Not FESA, CESA, or CNPS listed
Pacific madrone	<i>Arbutus menziesii</i>	Not FESA, CESA, or CNPS listed
Pacific willow	<i>Salix lasiandra</i>	Not FESA, CESA, or CNPS listed
perennial sweet pea	<i>Lathyrus latifolius</i>	Not FESA, CESA, or CNPS listed
periwinkle	<i>Vinca major</i>	Not FESA, CESA, or CNPS listed
ponderosa pine	<i>Pinus ponderosa</i>	Not FESA, CESA, or CNPS listed



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

common name	Scientific name	Status
prickly lettuce	<i>Lactuca serriola</i>	Not FESA, CESA, or CNPS listed
red/polished willow	<i>Salix laevigata</i>	Not FESA, CESA, or CNPS listed
reed canarygrass	<i>Phalaris arundinacea</i>	Not FESA, CESA, or CNPS listed
rescuegrass	<i>Bromus catharticus</i>	Not FESA, CESA, or CNPS listed
rough cats ear	<i>Hypochaeris radicata</i>	Not FESA, CESA, or CNPS listed
salsify	<i>Tragopogon sp.</i>	Not FESA, CESA, or CNPS listed
self-heal	<i>Prunella vulgaris</i>	Not FESA, CESA, or CNPS listed
single seeded hawthorn	<i>Crataegus monogyna</i>	Not FESA, CESA, or CNPS listed
snowberry*	<i>Symphoricarpos alba</i>	Not FESA, CESA, or CNPS listed
Spanish lotus	<i>Acmispon americanus</i>	Not FESA, CESA, or CNPS listed
spearmint	<i>Mentha spicata</i>	Not FESA, CESA, or CNPS listed
spicebush*	<i>Calycanthus occidentalis</i>	Not FESA, CESA, or CNPS listed
tall flatsedge	<i>Cyperus eragrostis</i>	Not FESA, CESA, or CNPS listed
thimbleberry	<i>Rubus parviflorus</i>	Not FESA, CESA, or CNPS listed
velvet grass	<i>Holcus lanatus</i>	Not FESA, CESA, or CNPS listed
Virginia creeper	<i>Parthenocissus quinquefolia</i>	Not FESA, CESA, or CNPS listed
western redbud*	<i>Cercis occidentallis</i>	Not FESA, CESA, or CNPS listed
white alder*	<i>Alnus rhombifolia</i>	Not FESA, CESA, or CNPS listed
wild oats	<i>Avena barbata</i>	Not FESA, CESA, or CNPS listed
wood rose*	<i>Rosa woodsii</i>	Not FESA, CESA, or CNPS listed
yarrow*	<i>Achillea millefolium</i>	Not FESA, CESA, or CNPS listed
Bold = Non-native plant species		
* = Some individuals may have been planted during restoration project by Sierra Streams Institute in 2003		

3.4.2.4.2 Terrestrial Wildlife Community

During the wildlife field survey and habitat assessment conducted on June 15, 2016, 15 bird species were observed singing and foraging within or immediately adjacent to the proposed Project area, including the Little Deer Creek riparian corridor, Pioneer Park picnic area, and adjacent residential gardens: Anna's hummingbird, northern flicker, brown creeper, black phoebe, Pacific-slope flycatcher, American robin, mountain chickadee, Bewick's wren, spotted towhee, California towhee, dark-eyed junco, black-headed grosbeak, band-tailed pigeon, Steller's jay, and common raven. All bird species observed in this survey are native species, and none are considered special-status species. Breeding evidence was present for several of these species. Fledglings were observed with four of these species in the riparian habitat: black phoebe, black-headed grosbeak, dark-eyed junco and spotted towhee. An American robin nest was visible in a private garden adjacent to the riparian corridor, and a California towhee was observed carrying its insect prey toward a nest at the edge of the park's picnic area.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Leaders of the Audubon Society Breeding Bird Atlas for Nevada County, Steve and Diane Rose, documented the following 40 bird species in Pioneer Park and surrounding residential neighborhoods in two post-breeding late summer surveys (July 26 and August 10, 2014): Canada goose, California quail, turkey vulture, red-shouldered hawk, band-tailed pigeon, Anna's hummingbird, Nashville warbler, hermit warbler, red-breasted sapsucker, Nuttall's woodpecker, downy woodpecker, hairy woodpecker, western wood-pewee, Pacific-slope flycatcher, black phoebe, Hutton's vireo, Steller's jay, western scrub-jay, American crow, common raven, mountain chickadee, chestnut-backed chickadee, bushtit, red-breasted nuthatch, white-breasted nuthatch, brown creeper, Bewick's wren, golden-crowned kinglet, western bluebird, American robin, orange-crowned warbler, dark-eyed junco, song sparrow, California towhee, spotted towhee, western tanager, black-headed grosbeak, brown-headed cowbird, house finch, and lesser goldfinch (eBird 2016). One of these species is considered special-status: the Nuttall's woodpecker is a USFWS-designated Bird of Conservation Concern. The majority of the observed species are native to the area; only the brown-headed cowbird is not native to the region (although it is native to the U.S.). Eleven of the Rose's observations included recently fledged young, which suggests that their nests may have been relatively close to the proposed Project area: song sparrow, red-breasted sapsucker, downy woodpecker, dark-eyed junco, spotted towhee, black-headed grosbeak, American robin, American crow, brown-headed cowbird, western scrub-jay, and Steller's jay. Steve and Diane Rose also documented the following additional species using Pioneer Park and the surrounding residential neighborhoods in the winter non-breeding season (with surveys on December 18, 2014, and January 3, 2015): varied thrush, oak titmouse, house wren, Pacific wren, hermit thrush, fox sparrow, golden-crowned sparrow, and pine siskin (eBird 2016). All of these winter observations are of native species; the oak titmouse is also a USFWS-designated Bird of Conservation Concern.

Native mammal and reptile species with potential to forage in the proposed Project area (though not observed during site surveys) include common species tolerant of recreational and residential human disturbance, such as the western fence lizard (*Sceloporus occidentalis*), California alligator lizard (*Elgaria multicarinata multicarinata*), western grey squirrel (*Sciurus griseus*), raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), mule deer (*Odocoileus hemionus*), coyote (*Canis latrans*), North American deer mouse (*Peromyscus maniculatus*), and the non-native house mouse (*Mus musculus*) and black rat (*Rattus rattus*).

Table 3.4-2 Bird species observed on five survey dates in 2014-2016 at the Little Deer Creek Restoration and Flood Control Project site and surrounding residential neighborhood, Nevada County, California.

common name	Scientific name	Status
American crow	<i>Corvus brachyrhynchos</i>	Protected by MBTA
American robin	<i>Turdus migratorius</i>	Protected by MBTA
Anna's hummingbird	<i>Calypte anna</i>	Protected by MBTA
band-tailed pigeon	<i>Patagioenas fasciata</i>	Protected by MBTA
Bewick's wren	<i>Thryomanes bewickii</i>	Protected by MBTA



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

common name	Scientific name	Status
black phoebe	<i>Sayornis nigricans</i>	Protected by MBTA
black-headed grosbeak	<i>Pheucticus melanocephalus</i>	Protected by MBTA
brown creeper	<i>Certhia americana</i>	Protected by MBTA
brown-headed cowbird	<i>Molothrus ater</i>	Not native to CA; protected by MBTA
bush tit	<i>Psaltriparus minimus</i>	Protected by MBTA
California quail	<i>Callipepla californica</i>	Not protected by MBTA
California towhee	<i>Melospiza crissalis</i>	Protected by MBTA
Canada goose	<i>Branta canadensis</i>	Protected by MBTA
chestnut-backed chickadee	<i>Poecile rufescens</i>	Protected by MBTA
common raven	<i>Corvus corax</i>	Protected by MBTA
dark-eyed junco	<i>Junco hyemalis</i>	Protected by MBTA
downy woodpecker	<i>Picoides pubescens</i>	Protected by MBTA
fox sparrow	<i>Passerella iliaca</i>	Protected by MBTA
golden-crowned kinglet	<i>Regulus satrapa</i>	Protected by MBTA
golden-crowned sparrow	<i>Zonotrichia atricapilla</i>	Protected by MBTA
hairy woodpecker	<i>Picoides villosus</i>	Protected by MBTA
hermit thrush	<i>Catharus guttatus</i>	Protected by MBTA
hermit warbler	<i>Setophaga occidentalis</i>	Protected by MBTA
house finch	<i>Haemorhous mexicanus</i>	Protected by MBTA
house wren	<i>Troglodytes aedon</i>	Protected by MBTA
Hutton's vireo	<i>Vireo huttoni</i>	Protected by MBTA
lesser goldfinch	<i>Spinus psaltria</i>	Protected by MBTA
mountain chickadee	<i>Poecile gambeli</i>	Protected by MBTA
Nashville warbler	<i>Oreothlypis ruficapilla</i>	Protected by MBTA
northern flicker	<i>Colaptes auratus</i>	Protected by MBTA
Nuttall's woodpecker	<i>Picoides nuttallii</i>	Protected by MBTA; also BCC
oak titmouse	<i>Baeolophus inornatus</i>	Protected by MBTA; also BCC
orange-crowned warbler	<i>Oreothlypis celata</i>	Protected by MBTA
Pacific wren	<i>Troglodytes pacificus</i>	Protected by MBTA
Pacific-slope flycatcher	<i>Empidonax difficilis</i>	Protected by MBTA
pine siskin	<i>Spinus pinus</i>	Protected by MBTA
red-breasted nuthatch	<i>Sitta canadensis</i>	Protected by MBTA
red-breasted sapsucker	<i>Sphyrapicus ruber</i>	Protected by MBTA
red-shouldered hawk	<i>Buteo lineatus</i>	Protected by MBTA
song sparrow	<i>Melospiza melodia</i>	Protected by MBTA



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

common name	Scientific name	Status
spotted towhee	<i>Pipilo maculatus</i>	Protected by MBTA
Steller's jay	<i>Cyanocitta stelleri</i>	Protected by MBTA
turkey vulture	<i>Cathartes aura</i>	Protected by MBTA
varied thrush	<i>Ixoreus naevius</i>	Protected by MBTA
western bluebird	<i>Sialia mexicana</i>	Protected by MBTA
western scrub-jay	<i>Aphelocoma californica</i>	Protected by MBTA
western tanager	<i>Piranga ludoviciana</i>	Protected by MBTA
western wood-pewee	<i>Contopus sordidulus</i>	Protected by MBTA
white-breasted nuthatch	<i>Sitta carolinensis</i>	Protected by MBTA
MBTA = federal Migratory Bird Treaty Act; BCC = USFWS Bird of Conservation Concern		

3.4.2.4.3 Aquatic Biotic Community

No amphibians were observed during the wildlife field survey conducted on June 15, 2016. Pacific chorus frogs (*Pseudacris regilla*), however, are ubiquitous in the region and have been observed foraging in the Project area on other dates by SSI staff. This species may also breed on site in small numbers, but the instream habitat is not ideal for chorus frog breeding due to the sparseness of emergent vegetation and the lack of still pools. Non-native American bullfrogs (*Lithobates catesbeianus*) also have potential to forage on site, but are unlikely to breed on site for the same reasons.

Three species of garter snakes reside in the region and have potential to forage in the proposed Project area, although they were not observed during site surveys: valley garter snake (*Thamnophis sirtalis fitchi*), Sierra garter snake (*Thamnophis couchii*) and mountain garter snake (*Thamnophis elegans elegans*). However, due to the lack of suitable nursery habitat with slow water and the concealment provided by fine-stemmed emergent vegetation, these species are unlikely to rear young in the proposed Project area.

Fish species observed in Little Deer Creek within the proposed Project area include native rainbow trout (*Oncorhynchus mykiss*) and nonnative brown trout (*Salmo trutta*). Other small, non-special-status fish species such as Sacramento sucker (*Catostomus occidentalis*) are also likely to occur there. Fish habitat is currently of limited quality in the proposed Project area due to the concrete presence and the limited structural complexity of benthic and riparian conditions. Anadromous species are prevented from reaching the site by anthropogenic dams and natural barriers several miles downstream from the proposed Project area.

The Site Characterization Report for the proposed Project notes that, based on biannual monitoring from 2001-2011, the benthic macroinvertebrate community of Little Deer Creek is currently characterized by "marginal" ecological health at the proposed Project site, with an Index of Biotic Integrity (IBI) score of 19.8, substantially lower than the 24.3 "good" IBI score



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

upstream of Pioneer Park (Bell 2012). An average of 20 aquatic macroinvertebrate taxonomic families have been recorded at the site during monitoring visits, ranging from 12-28 families documented per visit from 2001-2011 (SSI 2016).

3.4.2.4.4 Special-status Species

Special-status species include plants and animals that are legally protected or are otherwise considered sensitive by federal, state, or local resource conservation agencies and organizations. Special-status species addressed in this section include:

- Species listed, proposed for listing, or considered candidates for listing as threatened or endangered under the federal and/or California Endangered Species Acts (ESA or CESA);
- Species identified by CDFW as California Species of Special Concern;
- Animals listed as Fully Protected in California under the California Fish and Game Code;
- Bird species designated by USFWS as Birds of Conservation Concern (BCC);
- Plants listed as Endangered or Rare under the California Native Plant Protection Act;
- Plants designated by the California Native Plant Society (CNPS 2016) as List 1B (plants rare, threatened or endangered in California and elsewhere) or List 2 (plants rare, threatened or endangered in California but more common elsewhere);
- Species that meet the definitions of "rare" or "endangered" under CEQA Guidelines, Section 15380; and
- Species designated as "special animals" or plants and animals "of greatest conservation need" by CDFW through the CNDDDB.

An evaluation of the potential for special-status species to occur within or adjacent to the proposed Project area was conducted based on the desktop analysis and field studies described in the Methods section 3.4.2.3. A list of regionally occurring special-status species was compiled based on a review of pertinent literature, the results of the field assessment, and the review of the species lists compiled from the databases from USFWS, CDFW CNDDDB, and CNPS. For each plant and wildlife species, habitat requirements were assessed and compared to the habitats in the proposed Project area, and in adjacent areas.

Figure 3.4.1 shows the locations of special-status species occurrences documented by CNDDDB within five miles of the proposed Project area. Tables 3.4-3 and 3.4-4 list these species and others that were evaluated for their potential to occur on site. Conclusions in Tables 3.4-3 and 3.4-4 regarding the potential for species occurrence were based on the background research, database searches, and local habitat suitability as assessed in the field. For each evaluated

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

species, the “potential for occurrence” in the proposed Project area is defined in the tables as follows:

- **Very Low to Nil:** The proposed Project area and/or immediate area does not support suitable habitat for the species and/or the Project area is outside the species' known geographic range.
- **Low:** The proposed Project area and/or immediate area only provides limited habitat for the species and/or the Project area may be outside the species' known geographic range.
- **Moderate:** The proposed Project area and/or immediate area provides suitable habitat for the species and the Project area is located within the species' known geographic range.
- **High:** The proposed Project area and/or immediate area provides ideal habitat conditions for the species and/or known populations occur in the immediate area.
- **Known Occurrence:** Recorded historically and/or observed on site during biological surveys for the proposed Project.

Species with a known occurrence or moderate or high potential to occur in the proposed Project area are further described in the species accounts following, Tables 3.4-3 and 3.4-4 and are included in the impact analysis checklist at the end of this section.

3.4.2.4.5 Special-status Plants

Of the 33 special-status plant species identified in the region from a surrounding nine-quad search (CNPS 2016), 21 species were found to have Very Low to Nil potential to occur within the proposed Project area, and the remaining 12 were determined to have Low potential to occur (Table 3.4.3).

Based on the review of habitat requirements and the results of field surveys and assessments, the proposed Project area provides Very Low to Nil and Low potential suitable habitat for the special-status plant species identified within the desktop analysis (Table 3.4.3). Eight special-status plants have been known to occur within five miles of the project boundary (Figure 3.4.1), however no special-status species were observed in the proposed Project area. Due to the absence of mesic meadow, seep, and marsh habitat, and due to the low quality of riparian habitat on site, the wetland-associated Cantelow's lewisia (*Lewisia cantelovii*), Scadden Flat checkerbloom (*Sidalcea stipularis*), brownish beaked-rush (*Rhynchospora capitellata*), and finger rush (*Juncus digitatus*) have Very Low to Nil potential to occur within the Project area. Due to soil compaction, erosion, recreational use and park maintenance within the coniferous portion of the proposed Project area, the forest-associated Brandegee's clarkia (*Clarkia biloba* ssp. *brandegeae*), Butte County fritillary (*Fritillaria eastwoodiae*), and dubious pea (*Lathyrus sulphureus* var. *argillaceus*) have Low potential for occurrence at the site. There is Very Low to Nil



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

potential for Pine Hill flannelbush (*Fremontodendron decumbens*) to occur on site due to the absence of gabbro and/or serpentine soils.

One black oak, with a 16 inch DBH, is located on the south side of the proposed Project area. One canyon live oak (*Quercus chrysolepis*) with a five inch DBH is also present in the same location. The DBH and canopy cover of these two trees, the largest found on site, do not qualify them as heritage oaks. As part of Best Management Practices, they will be protected anyway.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.4-3 Special-status plant species and their potential to occur in the Little Deer Creek Restoration and Flood Control Project, Nevada County, California.

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Ahart's buckwheat <i>Eriogonum umbellatum</i> var. <i>ahartii</i>	--	S3	1B.2	1,312-6,562 feet (400-2,000 meters); Not known in Nevada County. Known from occurrences in Butte, Plumas, and Yuba Counties	Chaparral, cismontane woodland; Serpentine slopes and openings	June-September	Very Low to Nil: No suitable habitat in the Project area due to absence of serpentine; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within five miles of Project area.
Bacigalupi's yampah <i>Perideridia bacigalupii</i>	--	S3	4.2	1,476- 3,396 feet (450-1035 meters)	Chaparral; lower montane coniferous/yellow pine forests; serpentine	July-August	Low: Limited suitable habitat in the Project area due to absence of serpentine soils; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Brandegee's clarkia <i>Clarkia biloba ssp. brandegeae</i> *	--	S4	4.2	246- 3,001 feet (75-915 meters); Many documented occurrences in woodland openings and road cuts at South Yuba, Middle Yuba corridors near Hwy 49, Indian Flat, Bear River near Hwy 49, Rollins Lake, Edwards Xing, Purdon Rd, Cement Hill, Dog Bar and Mt Olive Roads, Lake of the Pines and Alta Sierra.	Chaparral; cismontane woodland; lower montane coniferous forests; Often on colluvium of road cuts where soils are uncompacted, light is abundant, and there is less competition from shrubs and trees	May-July	Low: Limited suitable habitat in the Project Area; impacts include compaction, erosion, and non-native invasive plants. Known occurrences within 5 miles of the Project area.
Brownish beaked-rush <i>Rhynchospora capitellata</i> *	--	S1	2B.2	114- 5,610 feet (35-1,710 meters); State Route 20 in Grass Valley marshy area in County Fairgrounds	Lower and upper montane coniferous forests in mesic sites; seeps/marshes/swamps	July-August	Very Low to Nil: No suitable habitat in the Project area due to absence of meadows, seeps, marshes, swamps. Known occurrences within 5 miles of the Project area.
Butte County fritillary <i>Fritillaria eastwoodiae</i> *	--	S3	3.2	164- 4,921 feet (50-1,500 meters); Four documented occurrences in Washington Ridge and North Bloomfield areas; South of the Yuba River and west of Devils Slide about four air miles northwest of Nevada City. Large population on Cement Hill	Chaparral; cismontane woodland; lower montane coniferous forest; Dry slopes, occasionally moist, generally filtered light; Throughout its range, occurs on a wide variety of soil types and depths.	March - May	Low: Limited suitable habitat in the Project area; impacts include compaction, erosion, and non-native invasive plants. Known occurrences within 5 miles of the Project area.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
California lady's slipper <i>Cypripedium californicum</i>	--	S3.2	4.2	98- 9,022 feet (30-2,750 meters)	Lower montane coniferous/yellow pine forests; wetlands; seeps/bogs/fens; stream banks; serpentine.	April-September	Very Low to Nil: No suitable habitat in the Project area due to absence of meadows, seeps, marshes, swamps, and serpentine; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.
California pitcherplant <i>Darlingtonia californica</i>	--	S3.2	4.2	0- 8,480 feet (0-2,585 meters)	Douglas-fir/ red fir/yellow pine forests; wetlands; riparian; meadows, seeps/bogs/fens; serpentine.	April-July	Very Low to Nil: No suitable habitat in the Project area due to absence of seeps, bogs, fens, and serpentine; impacts include compaction, erosion, and non-native invasive plants; No known occurrences within 5 miles of the Project area

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Cantelow's lewisia <i>Lewisia cantelovii</i> *	--	S3	1B.2	1,083- 4,495 feet (330-1,370 meters), Many documented occurrences on the Middle and South Yuba rivers and tributaries. No known occurrences outside of these major drainages; Near Edwards and HWY 49 river crossing.	Broad-leafed upland forests; cismontane woodland; lower montane coniferous/yellow pine/mixed evergreen forests; chaparral; granitic; serpentine seeps; riparian; wetlands; mesic rock outcrops and wet cliffs, usually in moss or clubmoss; generally on metasedimentary rock	May-October	Very Low to Nil: No suitable habitat in the Project area due to absence of mesic rock outcrops and wet cliffs; impacts include compaction, erosion, and non-native invasive plants. Known occurrences within 5 miles of the Project area.
Chaparral sedge <i>Carex xerophila</i>	--	1B.2	S2S3	1,444-2,526 feet (440-770 meters)	Chaparral, cismontane woodland, lower montane coniferous forest on serpentine/gabbro soils.	March-June	Very Low to Nil: No suitable habitat in the Project area due to absence of serpentine or gabbro soils. No known occurrences within 5 miles of the Project area.
Congdon's onion <i>Allium sanbornii</i> var. <i>congdonii</i>	--	S3.3	4.3	984- 3,248 feet (300-990 meters)	Cismontane/foothill woodlands; yellow pine forests; chaparral; serpentine and volcanic soils	May-July	Very Low to Nil: No suitable habitat in the Project area due to absence of serpentine or gabbro soils. No known occurrences within 5 miles of the Project area.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Dubious pea <i>Lathyrus sulphureus</i> var. <i>argillaceus</i> *	--	S1S2	3	492- 3,051 feet (150-930 meters), Historic collection near Lime Kiln and Wolf Roads in western Nevada County recently rediscovered.; Only other occurrences in Shasta and Tehama Counties	Cismontane woodland; lower and upper montane coniferous forests; Full sun to part shade, woodland openings	April-May	Low: Limited suitable habitat in the Project area; dense upper tree canopy; impacts include compaction, erosion, and non-native invasive plants. Known occurrences within 5 miles of the Project area.
Elongate copper moss <i>Mielichhoferia elongata</i>	--	2B.2	S2	1,640- 4,265 feet (500-1,300 meters); Known from occurrences in Nevada City, Dutch Flat, and Washington USGS quads	Cismontane woodland; rocky outcrops; vernal mesic rock outcrops of metamorphic origin; usually in higher portions of fens	Year-round	Very Low to Nil: No suitable habitat in the Project area due to absence of suitable mesic habitat. No known occurrences within 5 miles of the Project area.
Felt-leaved violet <i>Viola tomentosa</i>	--	S3.2	4.2	4,708-6,561 feet (1,435-2,000meters)	Lower and upper cismontanesubalpine coniferous/ yellow/Lodgepole pine forests	May-October	Very Low to Nil: No suitable habitat in the Project area due to absence of preferred forest type. Project area is outside the species known elevation range. No known occurrences within 5 miles of the Project area.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Finger rush <i>Juncus digitatus</i> *	--	S1	1B.1	2,165- 2,592 feet (660-790 meters); Known from an occurrence in Grass Valley, southeast of the Idaho Maryland and Brunswick Road intersection	Cismontane woodlands, lower montane coniferous forests; full sun, vernally damp ground of seeps, vernal pools, and swales on gentle slopes over volcanic bedrock	April-June	Very Low to Nil: No suitable habitat in the Project area due to absence of suitable mesic habitats; vernal pools, swales, and volcanic seeps, and sunny openings. Known occurrences within 5 miles of the Project area.
Follett's monardella <i>Monardella folletti</i>	--	S2	1B.2	2,165- 6,562 feet (600-2,000 meters)	Lower montane coniferous, yellow pine forests; rocky, serpentine soils	June-September	Very Low to Nil: No suitable habitat in the Project area due to absence of serpentine soils. No known occurrences within 5 miles of the Project area.
Giant checkerbloom <i>Sidalcea gigantea</i>	--	S3	4.3	2,198- 6,397 feet (670-1,950 meters)	Meadows; seeps; lower and upper montane coniferous forests	June-October	Very Low to Nil: No suitable habitat in the Project area due to absence of meadows and seeps; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Humboldt lily <i>Lilium humboldtii</i> ssp. <i>humboldtii</i>	--	S3.2	4.2	295- 4,199 feet (90-1,280 meters)	Chaparral; cismontane/foothill woodlands; lower montane coniferous/yellowpine forests; openings	March-July	Low: Limited suitable habitat in the Project area; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.
Inundated bog club-moss <i>Lycopodiella inundata</i>	--	S1	2B.2	16- 3,281 feet (5-1,000 meters); In Nevada County, occurs in "diggins wetlands," usually mineralized, persistent bogs in hydraulic mining areas.	Lower montane coniferous/yellow pine forests; northern coastal scrub; freshwater wetlands/ marshes/ swamps	June-September	Very Low to Nil: No suitable habitat in the Project area due to absence of suitable mesic habitat. No known occurrences within 5 miles of the Project area.
Layne's ragwort <i>Packera layneae</i>	T	R-S2	1B.2	656-3,280 feet (200- 1,000 meters), Known from occurrences in Challenge, Clipper Mills, Pilot Hill, and Rackerby quadrangles	Chaparral, cismontane woodland; Rocky serpentine or gabbro soils	April-July	Very Low to Nil: No suitable habitat in the Project area due to absence of serpentine or gabbro soils. No known occurrences within 5 miles of the Project area.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Long-fruit jewel-flower <i>Streptanthus longisiliquus</i>	--	S3.3	4.3	2,346- 4,921 feet (715-1,500 meters)	Cismontane woodland; lower montane coniferous forest; openings	April-September	Low Potential: Limited suitable habitat in the Project area; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.
Minute pocket moss <i>Fissidens pauperculus</i>	--	S2	1B.2	10 – 1,024 meters	North Coast coniferous forest (damp coastal soil)	Year-round	Very Low to Nil: No suitable habitat in the Project area due to absence of suitable mesic habitat. No known occurrences within 5 miles of the Project area
Northern Sierra wildflower <i>Erigeron petrophilus</i> var. <i>sierrensis</i>	--	S3.3	4.3	984-6,801 feet (300-2,073 meters)	Cismontane/foothill woodlands; lower and upper montane coniferous forests; serpentine or granite, in non-wetlands	June-October	Low: Limited suitable habitat in the Project area due to absence of serpentine and suitable granite soils; impacts include compaction, erosion, and non-native invasive plants; No known occurrences within 5 miles of the Project area



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Pine Hill flannelbush <i>Fremontodendron decumbens</i> *	E	S1	1B2	1,394- 2,493 feet (425-760 meters); Known from fewer than 10 occurrences in Pine Hill area of El Dorado County and two in Nevada County; north of Bennet Road about 0.4 miles east of the Elm Ridge Cemetery, Grass Valley.	Chaparral; cismontane Woodland; Gabbro and serpentine endemic; local occurrences on Secca soil series, gabbro soils and on Dubakella series serpentines	April-July	Very Low to Nil: No suitable habitat in the Project area due to absence of serpentine or gabbro soils. <i>Known occurrences within 5 miles of the Project area.</i>
Sanborn's onion <i>Allium sanbornii</i> var. <i>sanbornii</i>	--	S4	4.2	853- 4,954 feet (260-1,510 meters); Documented on Sutton Way and Loma Rica serpentines, Hell's Half Acre lava cap, American Ranch Hill grabbo.	Serpentine or gravelly outcrops in chaparral; cismontane, foothill woodlands; yellow pine, lower montane coniferous forests;	May-September	Very Low to Nil: No suitable habitat in the Project area due to absence of serpentine or gabbro soils. No known occurrences within 5 miles of the Project area
Scadden Flat checkerbloom <i>Sidalcea stipularis</i> *	--	E	1B.1	2,296- 2,395 feet (700-730 meters), State Route 20 at Scadden Flat	Wet montane marshes and swamps fed by springs	July-August	Very Low to Nil: No suitable habitat in the Project area due to absence of mesic habitats, meadows and seeps; impacts include compaction, erosion, and non-native invasive plants. <i>Known occurrences within 5 miles of the Project area.</i>

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Sierra arching sedge <i>Carex cyrtostachya</i>	--	S2S3	1B.2	2,000-4,462 feet (610 – 1,360 meters)	Lower montane coniferous forest; mesic, meadows, seeps, marshes and swamps; riparian forest	May-August	Low: Limited suitable habitat in the Project area due to absence of mesic habitats, meadows and seeps; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.
Sierra blue grass <i>Poa sierrae</i>	--	S2S3	1B.3	1,197- 4,921 feet (365-1500 meters)	Openings; lower montane coniferous forest	April-June	Low: Limited suitable habitat in the Project area; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Sierra clarkia <i>Clarkia virgata</i>	--	S3.3	4.3	1,310- 5,300 feet (400-1,615 meters)	Cismontane/ foothill woodland; lower montane coniferous/ yellow pine forest	May-August	Low: Limited suitable habitat in the Project area; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.
Sierra foothills brodiaea <i>Brodiaea sierrae</i>	--	S3	4.3	164- 3100 feet (50-945 meters)	Chaparral; cismontane woodland; serpentine/gabbro	May-August	Low: Limited suitable habitat in the Project area due to absence of serpentine or gabbro; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area.
Stebbins' morning-glory <i>Calystegia stebbinsii</i>	E	CE, S1	1B.1	606- 3,576 feet (185-1,090 meters); Known in Nevada County from only a few occurrences in McCourtney Road-Wolf Mountain and Deadman's Flat area chaparral	Chaparral; openings; cismontane/foothill woodlands; Soils of the Pine Hill gabbro formation (Eldorado Co), Rescue soil series gabbro and serpentine (Nevada Co.)	April-July	Very Low to Nil: Limited to no suitable habitat in the Project area due to absence of gabbro and serpentine soils. No known occurrences within 5 miles of the Project area

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
Sticky pyrocoma <i>Pyrocoma lucida</i>	--	S3	1B.2	2,295- 6,400 feet (700-1,950 meters)	Lower montane coniferous, yellow pine forest; Great Basin scrub; meadows, seeps; alkaline and clay	July-October	Very Low to Nil: No suitable habitat in the Project area due to absence of scrub, meadows, soils. No known occurrences within 5 miles of the Project area
Thread-leaved beakseed <i>Bulbostylis capillaris</i>	--	S3.2	4.2	3,937- 6,807 feet (395-2,075 meters)	lower and upper montane coniferous, yellow pine forests; meadows, seeps/ wetlands; riparian	April-July	Very Low to Nil: Low: Limited suitable habitat in the Project area due to absence of mesic habitats, meadows and seeps; Project area outside of species known elevation range. No known occurrences within 5 miles of the Project area.
True's manzanita <i>Arctostaphylos mewukka</i> ssp. <i>truei</i>	--	S3.3	4.2	1,394- 4,560 feet (425-1,390 meters)	Chaparral; lower montane coniferous, yellow pine forests; roadsides	February-July	Low: Limited suitable habitat in the Project area due to dense tree canopy; impacts include compaction, erosion, and non-native invasive plants. No known occurrences within 5 miles of the Project area

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status			Geographic distribution/Floristic province	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State	CNPS				
<p>* = Plants with known occurrences within five miles of proposed Project area</p> <p>Federal E = Listed as endangered under the Federal Endangered Species Act T = Listed as threatened under the Federal Endangered Species Act -- = No listing</p> <p>State E = Listed as endangered under the California Endangered Species Act R = Listed as rare under the California Native Plant Protection Act CE = Candidate for listing as endangered under the California Endangered Species Act S1 = Critically Imperiled S2 = Imperiled S3 = Vulnerable S4 = Apparently Secure S5 = Secure 0.1 = Seriously threatened in California 0.2 = Fairly threatened in California 0.3 = Not very threatened in California</p> <p>California Native Plant Society 1A = Plants presumed extirpated in CA and either rare or extinct elsewhere 1B = Plants rare, threatened, or endangered in California and elsewhere 2A = Plants presumed extirpated in CA but more common elsewhere 2B = Plants rare, threatened, or endangered in California but more common elsewhere 3 = Plants about which more information is needed - a review list 4 = Plants of limited distribution - a watch list Source: Calflora 2016, CDFW 2016e, CNPS 2016a, USFWS 2016a.</p>							



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.4.2.4.6 Special-status Wildlife

Seventeen special-status wildlife species were identified through background research as having the potential to occur in the broader region surrounding the proposed Project area (CDFW 2016e, USFWS 2016a, Figure 3.4.1, Table 3.4.4). The proposed Project area was surveyed and evaluated to determine habitat suitability and the level of potential occurrence for each special-status species. Based on desktop analysis, habitat assessment, and field surveys completed June 15, 2016, a total of seven special-status wildlife species have the potential to occur within the proposed Project area (Table 3.4.4). Two special-status wildlife species were documented within the Project area, three special-status species were determined to have moderate potential to occur on site, and two special-status wildlife species were determined to have low potential to occur on site (Table 3.4.4). A discussion of each of the seven special-status species either known to occur or with moderate or low potential to occur in the proposed Project area can be found below Table 3.4.4. Due to their high profile and SSI's commitment to protecting special-status amphibians, the California red-legged frog (*Rana draytonii*) and the foothill yellow-legged frog (*Rana boylei*), two additional species with Very Low to Nil potential to occur in the Project area, are also discussed following Table 3.4.4.

Table 3.4-4 Special-status fish and wildlife species and their potential to occur in the Little Deer Creek Restoration and Flood Mitigation Project area, Nevada County, California.

Common name Scientific name	Legal status		Geographic distribution	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State				
Invertebrates						
Valley elderberry longhorn beetle <i>Desmocerus californicus dimorphus</i>	T	--	California Central Valley and foothills below 3,280 ft (1,000 m) elevation	Elderberry shrubs, typically in riparian habitats	Year-round	Very Low to Nil. No suitable habitat within Project area. No elderberry shrubs present. No known occurrences within 5 mi (8 km) of Project area or nine surrounding USGS quads.
Vernal pool fairy shrimp <i>Branchinecta lynchi</i>	T	--	West of the Sierra Nevada	Vernal pools and other seasonal wetlands in valley and foothill grasslands	Winter/spring (adults)	Very Low to Nil. No suitable habitat within Project area. No vernal pools or seasonal wetlands present. No known occurrences within 5 mi (8 km) of Project area or four surrounding USGS quads.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status		Geographic distribution	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State				
Vernal pool tadpole shrimp <i>Lepidurus packardii</i>	E	--	California Central Valley	Vernal pools and other seasonal wetlands in valley and foothill grasslands	Winter/spring (adults)	Very Low to Nil. No suitable habitat within Project area. No vernal pools or seasonal wetlands present. No known occurrences within 5 mi (8 km) of Project area or four surrounding USGS quads.
Western bumble bee <i>Bombus occidentalis</i>	--	CNDDDB	North America west of the Great Plains	Grasslands, urban parks and gardens, chaparral, and mountain meadows with long-season nectar/pollen sources and abandoned rodent burrows for nesting and hibernaculae	February through November, with late summer peak	Moderate. Project area and surrounding neighborhood may provide suitable foraging habitat. However, paved surfaces, compacted soil/turf and recreational disturbance limit the suitability of potential nest sites and hibernacula on site. Documented by CNDDDB within 5mi (8km) of Project area.
Fish						
Central Valley spring-run Chinook salmon <i>Oncorhynchus tshawytscha</i>	T	T	Sacramento River and tributaries	Spawn in freshwater streams with cool, well-oxygenated water; immature fish remain for additional months in suitable rearing habitats	Dependent on tributary	Nil. The Project area is out of this species' range, no known occurrences within 15 mi (24 km) of Project area, and impassable barriers to fish migration several miles downstream.
Central Valley steelhead <i>Oncorhynchus mykiss</i>	T	--	Sacramento and San Joaquin Rivers and their tributaries	Spawn in freshwater streams with cool, well-oxygenated water; immature fish remain for additional months in suitable rearing habitats	January-June (spawning)	Nil. The Project area is out of this species' range, no known occurrences within 15 mi (24 km) of Project area, and impassable barriers to fish migration several miles downstream.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status		Geographic distribution	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State				
Delta smelt <i>Hypomesus transpacificus</i>	T	E	From Suisun Bay upstream through the Delta in Contra Costa, Sacramento, San Joaquin, Solano, and Yolo Counties	Estuaries, river channels, and tidally influenced backwaters. Spawn in shallow, fresh or slightly brackish water upstream of the mixing zone	March-June (spawning)	Nil. The Project area is out of this species' range, no known occurrences within 15 mi (24 km) of Project area, and impassable barriers to fish migration several miles downstream.
Amphibians						
California red-legged frog <i>Rana draytonii</i>	T	SSC	California Coast Ranges and west-slope foothills of the Sierra Nevada, usually below 3,936 ft (1,200 m) elevation	Lowland and foothill streams, marshes and ponds with slow, permanent water sources, including pools typically 3ft (1m) or more in depth, with dense shrubby or emergent riparian vegetation and upland refugia	Year-round	Very Low to Nil. No suitable habitat within Project area. Creek water is shallow and swift, with sparse riparian vegetation, very little emergent vegetation, and highly disturbed uplands. Nearest known occurrence is an isolated population 4.5 mi (7.2 km) from Project site, much farther than the average 492 ft (150 m) and maximum 0.9-1.7 mi (1.4-2.8 km) dispersal distance known for this species. Critical habitat is designated 2.5 mi (4km) north of the Project area, in the Rock Creek watershed north of Harmony Ridge. Only one additional isolated population is known within the surrounding USGS quads, located in the Challenge quad near Lake Oroville.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status		Geographic distribution	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State				
Foothill yellow-legged frog <i>Rana boylei</i>	--	SSC	California foothill streams from near sea level to 6,000 feet (1,830 meters) elevation	Shallow foothill streams with cobble or gravel substrate, riffles, pools, sunny banks or other basking resources, and minimum 15 weeks of water for larval development	Year-round	Very Low to Nil. On site habitat is of low quality, lacking slow pools for egg-laying and tadpole refugia, macroinvertebrate-rich riffles for adult foraging, or sunny banks/boulders for basking and thermoregulation. Not observed in Deer Creek or Little Deer Creek throughout two years of SSI amphibian surveys and 20 years of SSI water quality surveys. Nearest known occurrences five mi (eight km) southeast of Project area in Greenhorn Creek and 5mi (8km) north and northwest in the South Yuba River.
Sierra Nevada yellow-legged frog <i>Rana sierrae</i>	E	T	East and west slopes of the northern Sierra Nevada and southern Cascade mountains, typically from 4,500-12,000 ft (1,371-3,657 m) elevation; rarely as low as 3,500 ft (1,067 m) in the Cascade portion of their range	Montane meadows, lakes and ponds that do not freeze to the bottom and that maintain water year-round; occasionally high-elevation streams with still or slow-moving pools for egg laying	Dependent on timing of snow/ice melt	Nil. Proposed Project site is 1,000 ft (305 m) lower in elevation than the edge of this species' geographic range, and most occurrences are well above 2,000 ft (610 m) higher than the Project site. Nearest critical habitat subunit 2-C (Black Buttes) is over 21 miles (40 km) east. Project site is not hydrologically connected to known species occurrences, and individuals of this species rarely move more than 3.3 ft (1 m) from water. On-site habitat is not suitable due to lack of slow pools.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status		Geographic distribution	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State				
Reptiles						
Western pond turtle <i>Emys marmorata</i>	UR	SSC	From sea level to 4,500 ft (1,371 m) in western California to the west slope of the Sierra Nevada	Ponds, marshes, slow-moving streams, lakes, sloughs, and irrigation/drainage ditches; nest in nearby uplands with friable soils, low vegetation and minimal disturbance	February to November	Low. No suitable habitat within Project area for nesting, juvenile rearing, or hibernacula. Low-quality habitat within Project area for foraging adults. Documented by SSI 2mi (3.2 km) from Project area at Hirschman's Pond and by CNDDDB within 4.5 mi (7.2 km) of Project area in the Rock Creek Watershed north of Harmony Ridge. Both populations separated from Project area by major highways and urban development.
Coast horned lizard <i>Phrynosoma blainvillii</i>	--	SSC	California's Central Valley, west-slope Sierra Nevada foothills, and central and southern Coast Ranges; Sierra populations typically below 2,000 ft (600 m) elevation but may extend up to 4,000 ft (1,200 m)	Variety of open habitats including chaparral, oak savannah, grassland, open-canopy conifer habitats, and riparian floodplains; friable soils for burrowing are essential for winter hibernacula, summer thermoregulation, and nesting	Spring through Autumn	Very Low to Nil. Suitable soils absent in Project area due to park turf compaction and urban pavement. Three occurrences documented by CNDDDB 3-5 mi (4.8-8.0 km) of the Project area are within more suitable rural habitats.
Birds						
California black rail <i>Laterallus jamaicensis coturniculus</i>	BCC, MBTA	T, FP	Salt marshes and estuaries on the central California coast; foothill freshwater marshes and low-elevation wet meadows in the Sierra Nevada	Marshes, meadows and floodplains characterized by dense, fine-stemmed vegetation and shallow water (~1-inch depth preferred), bordered by upland flood refugia with shrubs or herbaceous cover	February to September, with peak detections April to June	Very Low to Nil. No suitable habitat within Project area. No marsh habitat present. Sole occurrence documented by CNDDDB within 5 mi (8km) of the Project area was within more suitable habitat.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name Scientific name	Legal status		Geographic distribution	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State				
Yellow warbler <i>Setophaga petechia</i>	BCC, MBTA	SSC	Most of California except the high Sierra over 8,000 ft (2,500 m) elevation and the desert southeast. Extirpated from much of the Central Valley, where it was historically common.	Nests primarily in riparian areas dominated by willows, cottonwoods, sycamores, or alders; also wet meadows with willow patches; and to a lesser degree in montane chaparral and coniferous forests with substantial understory brush cover	April to September, with peak detections May to July	Moderate. Not observed on site and more likely to nest in riparian habitat with more cover and complexity and less disturbance than the Project site, but may forage on site during migration.
Yellow-breasted chat <i>Icteria virens</i>	MBTA	SSC	Coastal California, west-slope Sierra Nevada foothills, and eastern Sierra desert riparian habitats; Sierra foothill elevations are typically below 4,800 ft (1,450 m)	Nest and forage in riparian thickets of willow, wild grape, and other brushy tangles near water and dense understory in riparian woodland	April to September, with peak detections May to July	Moderate. Documented by SSI approximately 1.5 mi (2.4 km) downstream from the Project area on Deer Creek, but rarely occupies sites with riparian habitat as narrow and disturbed as the Project site. May occasionally pass through the site on migration.
Oak titmouse <i>Baeolophus inornatus</i>	BCC, MBTA	--	Western Sierra Nevada foothills, Sacramento Valley, and Coast Ranges of California, plus limited records on the Modoc Plateau	Primarily oak woodlands; also mixed conifer and riparian habitats with oak species present	Year-round	Known Occurrence. Adults documented by eBird within the Project area, although only during the winter non-breeding season. Very low to nil potential for nesting in the Project area due to the near-lack of oak trees on site.
Nuttall's woodpecker <i>Picoides nuttallii</i>	BCC, MBTA	--	Western Sierra Nevada foothills, Central Valley and Coast Ranges of California	Oak woodlands and riparian woodlands	Year-round	Known Occurrence. Adults documented by eBird within the Project area in 2014, in the late summer post-breeding season. Not observed by SSI in 2016 breeding season survey, but moderate potential to nest on site due to relatively low but viable habitat quality.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Common name <i>Scientific name</i>	Legal status		Geographic distribution	Preferred habitat	Identification period	Level of potential for occurrence within project area
	Federal	State				
Mammals						
Western red bat <i>Lasiurus blossevillii</i>	--	SSC	Western Sierra Nevada west to the California coast, with most occurrences in the Central Valley	Roosts primarily in trees, occasionally shrubs. Forages in a variety of habitats including grassland and urban, though most commonly in woodlands near water.	Present March through October, maternity roosts early May through late August	Low. Habitat quality and potential for maternity roosting is marginal. Not documented within 5 mi (8 km) of the proposed Project area, but bat species that roost in small groups are typically under-reported.
<p>Federal T = Listed as Threatened under the federal Endangered Species Act UR = Under Review BCC = Bird of Conservation Concern MBTA = Protected under the Migratory Bird Treaty Act -- = Not listed</p> <p>State T = Listed as Threatened under the California Endangered Species Act FP = Fully Protected SSC = California Species of Special Concern -- = Not listed</p> <p>Source: CDFW 2016e, eBird 2016, Fellers and Kleeman 2007, Lincoln 2016, USFWS 2016a, USFWS 2016b, USFWS 2016c</p>						



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Western bumble bee (*Bombus occidentalis*)

Federal status: USFS Sensitive; State status: CNDDDB Sensitive Species

Pollinator populations in general are of conservation concern, as many species are undergoing considerable declines and are vital to the preservation of natural ecosystems and human food supplies. The western bumble bee is a pollinator of particular concern, as this species has disappeared from large portions of its historical range and has undergone precipitous population declines in California since the 1990s (Hatfield *et al.* 2014, Thorp 2008). The habitat for this species includes open grassy areas, urban parks and gardens, chaparral and other shrub-dominated areas, and montane meadows (Williams *et al.* 2014). Western bumble bees are generalist foragers and have been reported feeding at a wide variety of flowering plants including forbs and shrubs in the Fabaceae, Asteraceae, Rhamnaceae, Rosaceae, and other families (Thorp *et al.* 1983). They require blooming sources of nectar and pollen throughout the colony's life cycle from early February to late November. Colonial nest sites and hibernation sites for over-wintering queens are typically located in abandoned rodent burrows or other underground cavities in friable soils (Evans *et al.* 2008), and occupied nest tunnels have been reported over 2 m long (MacFarlane *et al.* 1994). Threats to western bumble bees and other pollinators include the spread of invasive exotic pests and diseases by the commercial bumble bee industry and other anthropogenic sources, habitat destruction, habitat degradation by invasive plant species and altered fire/grazing regimes, pesticide use, and climate change.

Western bumble bees have a moderate potential to occur in the proposed Project area. This species has been documented by CNDDDB within 5mi (8km) of the Project area (Figure 3.4.1). The proposed Project area and surrounding residential neighborhood may provide suitable foraging habitat for this species, although the paved surfaces, compacted soil/turf and recreational disturbance limit the suitability of potential nest sites and hibernacula on site.

California red-legged frog (*Rana draytonii*)

Federal status: Threatened; State status: Species of Special Concern

California red-legged frogs inhabit lowland and foothill streams, marshes and ponds with dense shrubby or emergent riparian vegetation and a permanent source of deep, still or slow moving water (Jennings and Hayes 1994). Most occurrences are below 3,936 ft (1,200 m) in elevation. The majority of the California red-legged frog life cycle is spent in still or slow-moving pools 3ft (1m) or more in depth that are shaded by low, overhanging branches (e.g., willows, alders) and concealed by emergent vegetation (e.g., cattails, sedges). Breeding pools are typically perennial, as they must remain inundated for a minimum of 11-20 weeks for tadpoles to complete larval development and metamorphose into adults. This species is highly vulnerable to predation, and most populations occur in habitats free of introduced aquatic predators such as bullfrogs (*Lithobates catesbeianus*), bass (*Micropterus* spp.), catfish (*Ameiurus* spp.) and mosquitofish (*Gambusia* spp.) (USFWS 2000, USFWS 2002). Small mammal burrows and moist leaf litter in well-vegetated riparian areas surrounding breeding pools provide important cover during



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

dispersal and refugia for aestivation (Jennings and Hayes 1994). Although California red-legged frogs were historically abundant throughout California, this species has been extirpated from 99% of the Sierra Nevada foothills (Jennings and Hayes 1985, Tunstall and Fellers 1999). Threats to this species include non-native predators such as bullfrogs and bass, habitat loss and fragmentation, degradation of habitat quality, pesticide pollution, and the invasive chytrid fungus (CaliforniaHerps 2016).

Habitat within the proposed Project area is not suitable for the California red-legged frog. The creek water is shallow and swift, with no pools, has sparse riparian vegetation, very little emergent vegetation, and highly disturbed uplands. The nearest known occurrence is an isolated population located approximately 4.5 mi (7.2 km) northeast from the proposed Project (CDFW 2016e, Figure 3.4.1), much farther than the average 492 ft (150 m) and maximum 0.9-1.7 mi (1.4-2.8 km) dispersal distance known for this species (Fellers and Kleeman 2007) and across several high-traffic paved roads. This isolated population is located in the Rock Creek watershed north of Harmony Ridge, on the east side of Sailor Flat near the South Yuba River. The proposed Project area is not within designated critical habitat; the nearest Critical Habitat Unit (NEV-1) is approximately 2.5 mi (4km) north of the Project area in the vicinity of the Rock Creek occurrence (USFWS 2010a, USFWS 2010b, USFWS 2016a, Figure 3.4.1). Only one additional isolated population is known within the nine USGS quads surrounding the Project area; in the Challenge quad near Lake Oroville. No California red-legged frogs were observed during the biological surveys conducted in the proposed Project area.

Foothill yellow-legged frog (*Rana boylei*)

Federal status: None; State status: Species of Special Concern

Foothill yellow-legged frogs are characteristically associated with shallow streams (less than three feet deep) with cobble or gravel substrates and little to no aquatic or emergent vegetation, from sea level up to 6,000 feet (1,830 meters) in elevation (Stebbins and McGinnis 2012). Ideal habitats contain edgewater, low-velocity areas and/or pools where egg masses may receive adequate oxygenation but also remain protected from scour or swift flows. Egg masses are laid on the downstream side of submerged rocks and/or near the downstream tail-outs of pools. Mating and egg-laying occurs in streams and rivers from April until early July, after streams have slowed from winter runoff. Eggs hatch within five to 37 days, depending on water temperature (Nafis 2000-2013). In addition to perennial streams, foothill yellow-legged frogs may occur in ephemeral creeks that retain perennial pools through the end of summer, provided that these pools maintain adequate flows for oxygenation of the egg masses prior to hatching and a minimum 15 weeks of water for larval development and metamorphosis. Egg masses and tadpoles have higher survival rates in areas free of predatory crayfish and non-native bullfrogs (Moyle 1973, Borisenko and Hayes 1999). Shallow areas, riffles, open sunny banks, and other basking sites such as instream boulders are important resources for yellow-legged frog thermoregulation.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Foothill yellow-legged frogs are not expected to occur in the proposed Project area. The on-site habitat is of low quality for this species, lacking slow pools for egg-laying and tadpole refugia, macroinvertebrate-rich riffles for adult foraging, or sunny banks/ boulders for basking and thermoregulation. Foothill yellow-legged frogs have not been observed in Deer Creek or Little Deer Creek throughout two years of SSI amphibian surveys and 20 years of SSI water quality surveys, including the biological surveys performed on site for the proposed Project. The nearest known occurrences of this species are approximately 5mi (8km) southeast of proposed Project area in Greenhorn Creek and 5mi (8km) north and northwest in the South Yuba River (CDFW 2016e, Lincoln 2016, Figure 3.4.1).

Western pond turtle (*Emys marmorata*)

Federal status: None; State status: Species of Special Concern

Western pond turtles are highly aquatic, associating with permanent ponds, lakes, streams, irrigation/drainage ditches, and freshwater marshes below 4,500 ft (1,371 m) elevation. They require still or slow moving water with sunny basking substrates for thermoregulation, such as emergent woody debris, rocks, cattail mats, exposed banks and similar features (CaliforniaHerps 2016). Nests are dug into sunny, friable soils above the high water line with clay, loam or silt content and minimal disturbance. During summer droughts, turtles travel to find isolated pools in creeks, or aestivate by burying themselves in soft bottom mud or loose woodland soil (CaliforniaHerps 2016). The western pond turtle is believed to be in decline in 75-80% of its range (River Partners 2011). Threats include the loss of suitable nesting habitat as wetlands are increasingly surrounded by development, predation on juveniles by bullfrogs and other introduced species, and competition for basking sites with the introduced red-eared slider (NID and PG&E 2010). On April 10, 2015, the USFWS issued a 90-day finding that sufficient scientific evidence has been presented to suggest that listing the western pond turtle under the federal Endangered Species Act may be warranted, and a 12-month review process has been initiated by the USFWS to further assess the available data and make a final status determination (Federal Register Volume 80, Number 69, Pages 19259-19263).

The proposed Project area does not contain suitable soils for western pond turtle nesting or hibernacula, due to the high degree of soil compaction and disturbance in Park areas above the high water line. Juvenile rearing habitat is also unsuitable due to the lack of basking sites for thermoregulation and the abundant activity of domestic dogs and human-adapted wild predators such as raccoons in this high-use park and residential neighborhood. Dispersing and/or foraging adults have low potential to occur, however, in the low-quality creek habitat within the proposed Project area. Western pond turtles have been documented by SSI 2mi (3.2 km) from the Project area at Hirschman's Pond and by CNDDDB within 4.5 mi (7.2 km) of Project area in the Rock Creek Watershed north of Harmony Ridge (CDFW 2016e, Figure 3.4.1). Both of these populations, however, are separated from the proposed Project area by major highways and urban development.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Special-status birds

Federal status: Birds of Conservation Concern, Migratory Bird Treaty Act; State status: Species of Special Concern

Two special-status bird species listed by USFWS as Birds of Conservation Concern were documented as foraging in the neighborhood surrounding the Project area following the 2014 nesting season: Nuttall's woodpecker (*Picooides nuttallii*) and oak titmouse (*Baeolophus inornatus*) (eBird 2016); however, these two species were not observed on site during 2016 nesting-season surveys. Nuttall's woodpeckers forage in oak woodland and riparian habitats, probing and gleaning for insect larvae (primarily beetles) underneath and on the surface of tree bark. Roughly 20% of this unusual woodpecker's diet is also composed of tree sap and berries, seeds, and nuts from plants such as poison oak and mistletoe (Bent 1939). Nuttall's woodpeckers excavate nesting cavities in dead (or occasionally live) deciduous trees, from 2-60 ft (0.6-18 m) above the ground. Oak titmice are secondary cavity nesters, raising their young in the abandoned nesting cavities left behind by Nuttall's and other woodpeckers. These oak woodland and riparian songbirds prey on insects and spiders and additionally feed on berries, acorns, and other seeds, which they glean from branches, foliage, and occasionally from the ground.

Two additional special-status bird species have not been observed in the Project area but have potential to nest or forage there in the future after Project restoration improves the riparian habitat quality on site: yellow warbler (*Setophaga petechia*) and yellow-breasted chat (*Icteria virens*), both listed by CDFW as California Species of Special Concern. Both of these neotropical migrant songbirds are associated with willow thickets and other dense riparian vegetation. Primarily insectivorous, the yellow-breasted chat also feeds upon riparian fruits such as wild grape, and benefits from the concealment provided by this and other vines when present.

Western red bat (*Lasiurus blossevillii*)

Federal status: None; State status: Species of Special Concern

Western red bats forage for flying insects above a variety of habitats including riparian areas, coniferous forests, oak woodlands, and occasionally urban areas and orchards, especially near water. They roost as solitary individuals and in single family groups, almost exclusively in trees, though occasionally in shrubs (Bat Conservation International 2008). Preferred roost sites are concealed from above for protection from owls, hawks and jays, and open from below for ease of flight. Roosts may be from two to 40 ft (0.6-13 m) above ground level (Zeiner *et al.* 1988-1990). Although most western red bat records are from elevations below 656 feet (200 meters), western Sierra Nevada foothill records are also present, with a maximum recorded elevation of 8,150 feet (2,484 meters) (Pierson *et al.* 2006). Most foothill records between March and October, with seasonal downslope movements in winter. Births occur between late May and early July, and young are capable of flight between 3-6 weeks of age (Zeiner *et al.* 1988-1990). Threats to western red bats include destruction and disturbance of roosting sites (including trees and



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

snags), loss and degradation of foraging habitat, bioaccumulation of toxins through their insect prey, and reduction in the quantity and quality of their prey base due to the use of pesticides. Bats exhibit high site fidelity and will not abandon an established roosting area unless disturbed, but disturbance can result in mortality of young.

The currently narrow width of the Project area's riparian habitat along Little Deer Creek limits its thermoregulatory protection and ability to conceal roosting bats from potential predators, and thus limits its suitability for bat roosting. Western red bats have a low potential for roosting foraging on site, but a slightly higher potential to forage on site. Although western red bats have not been documented within 5mi (8km) of the proposed Project area, bats that roost in small groups are typically under-reported in databases such as the CNDDDB, due to their nocturnal nature and the relatively sparse research and monitoring of these species.

3.4.3 Impact Analysis

The following discussion evaluates the potential impacts to biological resources from the proposed Project.

Table 3.4-5 CEQA Checklist for Assessing Project-Specific Potential Biological Resource Impacts

IV. BIOLOGICAL RESOURCES: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

IV. BIOLOGICAL RESOURCES: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) Would the Project have a substantial adverse effect, either directly or through habitat modification, on any species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

Finding: Less than significant with mitigation incorporated

The proposed Project area does not provide suitable habitat conditions for special-status plants, the valley elderberry longhorn beetle, California black rail, California red-legged frog, foothill yellow-legged frog, Sierra Nevada yellow-legged frog, or coast horned lizards. As a result, no impacts, both direct and indirect, are expected to occur to these species.

The western bumble bee has a moderate potential to forage on site on the nectar and pollen provided by native and non-native plants such as deerbrush, wood rose, and Himalayan blackberry. These foods would become less available in the short-term with the clearing and grubbing necessary to remove and/or cap arsenic-laden soils to complete the proposed Project restoration. The scale of this short-term vegetation removal is minor, however, and the proposed Project would result in a long-term increase in food sources for the western bumble bee and other pollinators by removing concrete from the streambanks, widening the riparian area, and revegetating with diverse native species as described in the Project Description. The proposed Project would thus have a less than significant impact on the western bumble bee.

Anadromous fish are blocked from accessing the site by impassable barriers several miles downstream, such as the waterfall at the Deer Creek Narrows and the dam at Lake Wildwood, and no other special-status fish are present in the region. As a result, no direct impacts are expected to occur to these species as a result of the proposed Project. Expected downstream effects on water quality due to the proposed Project include a long-term *benefit* to fish species due to the Project's reduction of the amount of arsenic currently entering Little Deer Creek from



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

the Pioneer Park field. Potential short-term construction-related impacts to water quality would be avoided or minimized and/or mitigated through the use of proper erosion and sediment control BMPs as per the proposed Project's Stormwater Pollution Prevention Plan (SWPPP) and proposed Mitigation Measures HYD-1 through HYD-4. Potential downstream impacts to fish would thus be less than significant with mitigation incorporated.

Western pond turtles are not expected to nest in the proposed Project area due to the unsuitability of the on-site soils. While this species is also unlikely to forage in the proposed Project area, if individuals happen to be present during construction activities, they could be harmed by construction equipment. This potential impact would be avoided by the implementation of Mitigation Measure HYD-2, which includes a Dewatering Plan and Aquatic Species Protection Plan discussed in the Project Description, which would be implemented based on consultation with the appropriate regulatory agencies. This plan would ensure that western pond turtles and non-special-status aquatic species with potential to forage in the creek, such as rainbow trout and Pacific chorus frogs, will remain outside of the active construction zone during the implementation period. This plan includes monitoring on a continuous basis by construction personnel throughout the stream construction phase. This potential impact would thus be less than significant with mitigation incorporated.

All native nongame birds are protected by Sections 3503 and 3800 of the California Fish and Game Code, and most native birds are protected by the federal Migratory Bird Treaty Act. The Little Deer Creek riparian habitat in the proposed Project area is known to provide nesting and foraging habitat for several common species of birds protected by these regulations. However, the riparian habitat within the proposed Project area is narrow in width and subject to frequent recreational disturbance by human activity in the surrounding park, streets, and residential neighborhood. Two bird species designated as BCC have been documented foraging in the neighborhood surrounding the proposed Project area during the late summer and winter post-nesting seasons: Nuttall's woodpecker and oak titmouse (eBird 2016), and two species designated as SSC, yellow warbler and yellow-breasted chat, also have potential to forage on-site following the proposed Project's riparian habitat restoration. None of these species have been recorded in the proposed Project area to date. Raptors protected by Section 3503.5 of the California Fish and Game Code may also forage on site, although they are unlikely to nest there due to the limited habitat quality and frequent disturbance.

The proposed Project's restoration of riparian habitat along Little Deer Creek is expected to have a long-term *benefit* to native nesting and foraging birds, including raptors and other special-status species; by increasing the width of the stream channel and associated riparian habitat; by increasing the density and coverage of willows and other native riparian plants that are of high value to birds as potential future nesting sites and attractants to insect prey; and by reducing the amount of arsenic in the water and food chain.

Direct adverse impacts to native birds could occur due to proposed Project activities if construction activities are conducted near active nests. Removal of vegetation in which active nests are located could result in the direct loss of eggs or young. Construction-related



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

disturbance could also impede nest survival if nearby construction activities result in nest abandonment, reduced rates of parental food deliveries to the nest, and/or an increased risk of nest predation. Disturbance resulting in nest abandonment or loss of eggs or young would be considered a significant direct impact. Therefore, with the implementation of Mitigation Measure BIO-1: Avoid Disturbance of Nesting Birds and Roosting Bats, impacts to nesting birds would be considered less than significant with mitigation incorporated.

The habitat requirements and breeding season phenology of local riparian bird species are similar to those of the western red bat (a California Species of Special Concern) and other tree-roosting bat species, which roost singly or in small family groups among tree foliage and bark crevices. The currently narrow width of the Project area's riparian habitat along Little Deer Creek limits its thermoregulatory protection and ability to conceal roosting bats from potential predators, and thus limits its suitability for bat roosting. Project restoration of riparian habitat along Little Deer Creek is thus expected to *benefit* tree-roosting bats in the long-term, by widening the riparian corridor and providing additional riparian vegetation and cover. The proposed Project's reduction of exposed heavy metals would also be expected to benefit bats by reducing the potential for these metals to enter the food chain. Indirect impacts to the western red bat include short-term construction-related disturbance such as noise. Direct impacts may occur due to proposed Project activities, such as the loss of young if a small maternity roost happens to be present at the time and vegetation removal were to occur. Therefore with the implementation of Mitigation Measure BIO-1: Avoid Disturbance of Nesting Birds and Roosting Bats, impacts from the proposed Project would be considered less than significant with mitigation incorporated.

Based on the information above, the proposed Project would create long-term *benefits* to special-status and non-special-status plant and wildlife species. However, to lessen the potentially significant impacts from the proposed Project discussed above, Mitigation Measures BIO-1 and HYD-A through D will be implemented. Therefore, impacts to special-status species from the proposed Project would be *less than significant with mitigation incorporated*.

b) *Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

Finding: Less than significant with mitigation incorporated

The proposed Project includes restoration of 640 linear feet on one side of Little Deer Creek, which is currently comprised of marginal riparian habitat. Floodplain function is anticipated to be enhanced by the proposed Project, thereby enhancing riparian habitat. Approximately eight alder trees 12-16 inch DBH and six alder trees 6-10 inch DBH are located where construction will occur. As stated in the Project Description, standard BMPs will be used for tree protection during construction activities. Non-native invasive plants will be removed when possible during construction, and revegetation with locally adapted, native riparian plant species will occur in disturbed areas after construction. Mitigation Measure BIO-2: Protect and Restore Riparian Plants



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

and Habitat outlines additional specifications to support the protection and enhancement of riparian habitat with the proposed Project. No other sensitive natural communities are present in the proposed Project area. A Streambed Alteration Agreement will be acquired and mitigation plans will be implemented.

Based on the information above, overall the proposed Project would have a long-term *benefit* to riparian habitat. However, to lessen the potentially significant impacts from the proposed Project discussed above, Mitigation Measures BIO-2 and HYD-2 will be implemented. Therefore, impacts to sensitive riparian habitat in the proposed Project area would be less than significant with the application of mitigation. Therefore, impacts to sensitive habitats from the proposed Project would be less than significant with mitigation incorporated.

- c) *Would the Project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?***

Finding: Less than significant with mitigation incorporated

The boundaries of jurisdictional wetlands on site were delineated by SSI Restoration Ecologist/Botanist Denise Della Santina using the 1987 Corps of Engineers Manual (WTI 1995) and current updates. The delineation will be reviewed by the ACOE in part with the Section 404 permitting process. Due to historical alterations of the creek channel and floodplain, the jurisdictional wetland extent is currently limited to a narrow corridor directly adjacent to the creek between the ordinary low and ordinary high water mark.

As stated in the Project Description, one of the proposed Project's primary goals is to benefit wetlands by restoring 640 ft (195 m) of Little Deer Creek to a more natural condition of flows, floodplain, and riparian habitat. The proposed Project would remove the existing 30 cubic yards (25 cubic meters) of concrete channel lining, which is currently decomposing into the stream channel. The proposed Project would also remove 450 cubic yards (345 cubic meters) of soil from an existing berm to widen the unnaturally narrow stream channel and reconnect it to its original floodplain. Although 200 cubic yards (155 cubic meters) of clean import fill and gravel (maximum 1-inch diameter) would be placed for streambank erosion protection, this volume is much less than the amount of concrete and soil fill that would be removed by the proposed Project, and it would be planted with native riparian species to enhance the habitat quality.

Several additional elements of the Project Description have been designed to avoid and minimize impacts to wetlands. Disturbance of the existing streambed channel will be minimized with no planned excavation of the streambed. Excavation in adjacent areas would not extend deeper than the depth of the existing streambed, and would be limited to areas above the depth of first encountered groundwater, at a maximum depth of approximately two feet. Proper erosion and sediment control BMPs will be in place during construction and post-construction, as per the SWPPP for the proposed Project. These BMPs will result in the avoidance or minimization



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

of potential water quality impacts, preventing sedimentation or the accidental introduction of contaminants into Little Deer Creek.

As stated in the Project Description, prior to the proposed stream restoration, a temporary coffer dam would be installed upstream of the proposed stream restoration area to further minimize the potential for downstream construction-related impacts to water quality. Little Deer Creek flows would be pumped around the restoration area through closed conduit piping on a continuous basis throughout Phase 1 of the proposed Project. Pumping would be anticipated to be maintained for approximately four to six weeks, and would be monitored on a continuous basis by construction personnel throughout the stream construction phase. This would be implemented in compliance with a Dewatering Plan and Aquatic Species Protection Plan based on consultation with the appropriate regulatory agencies.

Mitigation Measure HYD-2 further ensures Clean Water Act compliance by committing to consultation with the USACE, CDFW, and RWQCB to obtain permits in compliance with Clean Water Act Sections 404 and 401 and Section 1602 of the California Fish and Game Code prior to beginning Project implementation, including vegetation removal. Compliance with the terms of these permits and agreements would ensure that any Project impacts to wetlands and riparian habitats would be less than significant with mitigation incorporated.

Based on the information above, overall the proposed Project would have a long-term *benefit* to federally protected wetlands. However, to lessen the potentially significant impacts from the proposed Project discussed above, Mitigation Measure HYD-2 will be implemented. Therefore, impacts to federally protected wetlands in the proposed Project area would be less than significant with the application of mitigation. Therefore, impacts to wetlands from the proposed Project would be less than significant with mitigation incorporated.

d) *Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

Finding: Less than significant

Wildlife nursery sites, such as heron or egret nesting colonies (e.g., *Ardea* spp.), wetlands supporting substantial amphibian reproduction, or marshes providing refugia for abundant juvenile fish, are not present in the proposed Project area, which is composed of a narrow, limited-quality riparian corridor within a high-use recreational park and residential area. The proposed Project would thus have no impact to wildlife nursery sites.

Although riparian corridors often provide key routes for terrestrial wildlife movement through matrix landscapes characterized by less concealment, such as agricultural fields, grasslands, oak savannahs, and urban areas, the particular riparian habitat provided by Little Deer Creek within the proposed Project area is very narrow, sparsely vegetated, and lacks the characteristics of a high-quality movement corridor. Visibility is high from either side of the creek through to the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

opposite side, offering little more visual protection for migrating wildlife than that provided by the many ornamental trees and shrubs of the surrounding residential neighborhood. The riparian portion of the proposed Project area is relatively short in length at 640 feet (195 meters), a relatively insignificant portion of the surrounding landscape, and because human development is present for several miles both upstream and downstream, these 640 feet are not located in such a way as to provide a vital link between other high-quality wildlife resource areas. Construction activities and/or removal of vegetation could cause temporary disturbance to the movement of common wildlife species such as raccoons and mule deer. However, the extent of the disturbance would be limited and *less than significant* with no mitigation necessary. The Project's proposed removal of Himalayan blackberry and revegetation with native riparian plant species would also improve the quality of the riparian corridor for a long-term benefit to wildlife movement through the site.

Based on the information above, overall the proposed Project would have a long-term *benefit* and a less than significant impact to the movement of native resident or migratory fish or wildlife species or to established native resident or migratory wildlife corridors, and wildlife nursery sites. Therefore, no mitigation is required.

e) *Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation, policies or ordinances?*

Finding: Less than significant

The proposed Project would not conflict with local policies or ordinances relative to biological resources. Consistent with the Nevada County General Plan, all Project-related vegetation management would be conducted for the benefit of habitat restoration. Mature native trees (greater than 8-inch DBH) would be protected during construction with standard BMPs to prevent damage to the trees and their root systems. No net loss of habitat function or value for wetlands or special-status species would occur. Planting would be done with native species to provide suitable habitat for native wildlife. Staging areas will be located in previously disturbed or graded areas to the extent feasible. No heritage oaks (> 36 inch DBH) are located within or adjacent to the Project area; thus none will be removed or subject to root disturbance. Two oaks 5-16 inches DBH are present within the proposed Project area; however, these oaks would be avoided during construction of the proposed Project. Therefore, the proposed Project will not conflict with any approved or planned local policies or ordinances protecting biological resources. Potential impacts are considered less than significant.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- f) *Would the Project conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?***

Finding: No impact

The proposed Project area is not currently subject to a habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. The proposed Project would thus have no impact to such plans.

3.4.4 Mitigation

Mitigation Measure BIO-1: Avoid Disturbance of Nesting Birds and Roosting Bats

The City will implement the following measures to avoid disturbing nesting birds and roosting bats, including special-status and non-special-status species, migratory and resident species, and raptors.

In general, the breeding season for birds and bats is approximately March 1 to August 31 at the Project area's elevation in the Sierra Nevada foothills. Most young birds and bats at this elevation, however, have typically fledged the nest or natal roost by the end of June. For construction activities scheduled to occur between March 1 and August 31, a qualified wildlife biologist shall conduct a pre-construction survey within the Project area and all potential nesting and/or roosting habitat within 250 feet of this area to which the biologist may access without trespass. The survey shall be conducted no more than seven days before initiation of breeding-season construction activities. If no active nests or maternity roosts are detected, then no additional mitigation shall be required.

If bird nests or bat maternity roosts are found in any areas that would be directly affected by construction activities, a no-disturbance buffer area shall be established around each nest/roost site to avoid disturbance-related impacts. Buffer zones shall be clearly marked as Environmentally Sensitive Areas, and no construction activities may occur within a buffer zone until after the breeding season or after a qualified wildlife biologist has confirmed that the nest/roost is no longer active. The size and boundaries of each buffer area shall be determined by a wildlife biologist in coordination with CDFW, based on the following factors:

- species' biology and status;
- nest/roost stage;
- observed behavior of parents and young;
- nest/roost location and concealment, including factors such as substrate, height, surrounding vegetation, existing topographical or artificial barriers, and line of sight to the planned construction activities;



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- ambient levels of noise and other disturbances;
- specific construction activities to be performed and the level of noise or other disturbance they would be expected to create.

As the proposed Project has a multi-year implementation schedule, these provisions shall apply to each year of proposed Project activities.

Mitigation Measure BIO-1 Implementation

Responsible Party: City of Nevada City

Timing: One pre-construction survey shall be performed by a qualified wildlife biologist no more than seven days prior to initiating any breeding-season construction activities, each year (planned summer 2017 and summer 2018). If applicable, nest/roost buffer zones shall be established and maintained in coordination with CDFW, until the end of the nesting season or until the nest/roost is no longer active (summer 2017 and summer 2018).

Monitoring and Reporting Program: A brief report of the results of the pre-construction survey will be kept on file at City Hall in the City of Nevada City, at the Sierra Streams Institute office, and at the Project site.

Standards for Success: In general this measure seeks to avoid disturbance to nesting birds which could result in the loss of eggs or young. Disturbance can be noted by erratic behavior such as calling and diving, which may alert predators to the nest location, and/or holding food in the bill without consuming it or bringing it to the nest. Specifically, "Take" will be avoided for special-status avian and bat species, including nesting migratory birds.

Mitigation Measure BIO-2: Protect and Restore Riparian Plants and Habitat

Individual trees or groups of trees along Little Deer Creek, including *Alnus rhombifolia*, *Acer macrophyllum*, and *Populus fremontii*, will be protected to the greatest extent possible during construction to prevent damage to the trees and their root systems. To the extent possible, other riparian tree and shrub species will also be protected, including willows. To the extent possible, native perennials (i.e., bunch grasses, sedges, rushes) will be salvaged, stored in a shady place where they can be watered, and replanted post-construction. Upon completion of grading at the Project site, impacted or removed riparian trees and shrubs with at least one-inch DBH will be replanted at a 3:1 mitigation ratio planted along the restored floodplain, using material propagated from cuttings collected on site or from plants obtained at a local native plant nursery. Mitigations required for the Streambed Alteration Agreement will also be implemented. Native perennial plants and shrubs will also be planted for slope protection and wildlife habitat.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Mitigation Measure BIO-2 Implementation

Responsible Party: City of Nevada City

Timing: Protection and salvage of native plants will occur before and during riparian vegetation management or earthmoving work (summer/fall 2017 and summer/fall 2018). Revegetation will be completed following earthmoving work (fall/winter 2017/2018 and fall/winter 2018/2019).

Monitoring and Reporting Program: The revegetation will be monitored annually for a minimum of 3 years. Documentation will be kept on file at City Hall in the City of Nevada City, at the Sierra Streams Institute office, and at the Project site.

Standards for Success: The general goal is to have the area, density, and diversity of native riparian plant cover be greater upon Project completion than upon Project initiation. Longer term restoration success will be based on an 80% survival rate for the 3:1 replanted trees and shrubs. In addition, the herb layer must be within 20% of a baseline or adjacent reference site's total cover at the end of three years. The herb layer native species composition also must be within 20% of baseline or a nearby reference site at the end of three years. Adaptive management will be employed each year to facilitate meeting the success criteria. If at the end of 3 years the success criteria have not been met, additional plantings and successive annual monitoring is required for up to five years.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.5 CULTURAL RESOURCES

This section was written pursuant to Section 15064.5 of CEQA. The purposes were to (1) identify and record cultural resources in the Project area; (2) make preliminary evaluations of such resources' significance according to the criteria of the California Register of Historical Resources (CRHR); and (3) recommend procedures for avoidance or mitigation of adverse effects to CRHR-eligible resources. The results of the study are detailed in sections 3.5.1 and 3.5.3.4 below.

3.5.1 Regulatory Setting

This regulatory setting lists cultural resource regulations relevant to the proposed Project.

3.5.1.1 Federal Regulations

3.5.1.1.1 National Historic Preservation Act

The National Historic Preservation Act of 1966, as amended (NHPA) requires federal agencies, or those they fund or permit, to consider the effects of their actions on historic properties. The Advisory Council on Historic Preservation (ACHP) section 106 implementing regulations (36 Code of Federal Regulations [CFR] Part 800) defines "historic properties" as follows:

Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (NRHP) maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that meet the National Register criteria (36 CFR Part 800.16[1]).

To determine whether an undertaking could affect NRHP-eligible properties, cultural resources (including archaeological, ethnographical, and architectural properties) must be inventoried and evaluated for listing in the NRHP. For a property to be considered for inclusion in the NRHP, it must be at least 50 years old and meet the criteria for evaluation set forth in 36 CFR Part 60.4, as follows:

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of design, setting, materials, workmanship, feeling, and association and:

- A) That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B) That are associated with the lives of persons significant in our past; or
- C) That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master or that possess high artistic values or that represent



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

a significant and distinguishable entity whose components may lack individual distinction; or

D) That have yielded, or may be likely to yield, information important in prehistory or history.

If a particular resource meets one of these criteria, it is considered as a historic property eligible for listing in the NRHP. Among other criteria considerations, a property that has achieved significance within the last 50 years is not considered eligible for inclusion in the NRHP unless certain exceptional conditions are met.

3.5.1.2 State Regulations

3.5.1.2.1 California Environmental Quality Act (California Public Resources Code Section 21000 et seq.)

California Environmental Quality Act (California Public Resources Code section 21000 et seq.) (1970) established that historical and archaeological resources are afforded consideration and protection by the California Environmental Quality Act (CEQA) (14 CCR section 21083.2, 14 CCR section 15064). CEQA Guidelines define significant cultural resources under two regulatory designations: historical resources and unique archaeological resources.

A historical resource is a "resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the CRHR"; or "a resource listed in a local register of historical resources or identified as significant in a historical resource survey meeting the requirements of Section 5024.1 (g) of the Public Resources Code"; or "any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, provided the agency's determination is supported by substantial evidence in light of the whole record" (14 CCR Section 15064.5[a][3]).

Tribal Cultural Resources (TCR) are similar to federally designated Traditional Cultural Properties (TCPs) within CEQA. These can be sites, features, places, cultural landscapes, and sacred places or objects that have cultural value or significance to a Tribe. To qualify as a TCR, it must either be 1) listed on or eligible for listing on the California Register or a local historic register or, 2) or is a resource that the lead agency, at its discretion and supported by substantial evidence, determines should be treated as a TCR (PRC Section 21074). TCRs can include "non-unique archaeological resources" (see "unique archaeological resource" below) that, rather than being important for "scientific" value as a resource, can also be significant because of the sacred and/or cultural tribal value of the resource. Tribal representatives are considered experts appropriate for providing substantial evidence regarding the locations, types, and significance of tribal cultural resources within their traditionally and cultural affiliated geographic area (PRC Section 21080.3.1 (a)).

Historical resources automatically listed in the California Register include California cultural resources listed in or formally determined eligible for the National Register and California



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Historical Landmarks list from No. 770 onward (PRC 5024.1[d]). Locally listed resources are entitled to a presumption of significance unless a preponderance of evidence in the record indicates otherwise.

Under CEQA, a resource is generally considered historically significant if it meets the criteria for listing in the CRHR. A resource must meet at least one of the following criteria (PRC 5024.1; 14 CCR Section 15064.5[a][3]):

1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage. Title 14, CCR Section 4852(b)(1) adds, "is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States."
2. Is associated with the lives of persons important in our past. Title 14, CCR Section 4852(b)(2) adds, "is associated with the lives of persons important to local, California, or national history."
3. Embodies the distinctive characteristics of a type, period, region, or method of construction; or represents the work of an important creative individual; or possesses high artistic values. Title 14, CCR 4852(b)(3) allows a resource to be CRHR eligible if it represents the work of a master.
4. Has yielded, or may be likely to yield, information important in prehistory or history. Title 14, CCR 4852(b)(4) specifies that importance in prehistory or history can be defined at the scale of "the local area, California, or the nation."

Historical resources must also possess integrity of location, design, setting, materials, workmanship, feeling, and association (14 CCR 4852[c]).

An archaeological artifact, object, or site can meet CEQA's definition of a unique archaeological resource even if it does not qualify as a historical resource (PRC 21083.2[g]; 14 CCR 15064.5[c][3]). An archaeological artifact, object, or site is considered a unique archaeological resource if "it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria (PRC 21083.2[g]):

- Contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.
- Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- Is directly associated with a scientifically recognized important prehistoric or historic event or person."



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require that reasonable efforts be taken to preserve these resources in place or provide mitigation measures.

3.5.1.2.2 Public Resources Code (PRC), Section 5097.5

Public Resources Code (PRC), Section 5097.5 states that no person shall willingly or knowingly excavate, remove, or otherwise destroy a vertebrate paleontological site or paleontological feature without the express permission of the overseeing public land agency. It further states under PRC 30244 that any development that would adversely impact paleontological resources shall require reasonable mitigation. These regulations apply to projects located on land owned by or under the jurisdiction of the state or a city, county, district, or other public agency.

3.5.1.2.3 Public Resources Code (PRC), Section 5097.9 et seq

Public Resources Code (PRC), Section 5097.9 et seq. (1982) establishes that both public agencies and private entities using, occupying, or operating on state property under public permit, shall not interfere with the free expression or exercise of Native American religion and shall not cause severe or irreparable damage to Native American sacred sites. This section also creates the NAHC, charged with identifying and cataloging places of special religious or social significance to Native Americans, identifying and cataloging known graves and cemeteries on private lands, and performing other duties regarding the preservation and accessibility of sacred sites and burials.

3.5.1.2.4 CEQA Guidelines, California Code of Regulations Title 14, Section 15064.5

When an initial study identifies the existence of, or the probable likelihood of, Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission (NAHC). The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans identified as the Most Likely Descendant (MLD) by the NAHC.

3.5.1.2.5 Public Resources Code Section 5024.1.

Public Resources Code section 5024.1 establishes the CRHR. A resource may be listed as a historical resource in the CRHR if it meets National Register of Historic Places criteria or the following state criteria: (1) is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; (2) is associated with the lives of persons important in our past; (3) embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possess high artistic values; or (4) has yielded, or may be likely to yield, information important in prehistory. The CRHR is an authoritative guide in California to be used by state and local agencies, private groups, and citizens to identify California's historical resources and to indicate what properties are to be protected from substantial adverse change.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.5.1.2.6 Public Resources Code Section 5097.98

Public Resources Code section 5097.98 discusses the procedures that need to be followed upon the discovery of Native American human remains. The NAHC, upon notification of the discovery of human remains is required to contact the County Coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code and shall immediately notify those persons it believes to be most likely descended from the deceased Native American.

3.5.1.2.7 Health and Safety Code Section 7050.5

Health and Safety Code section 7050.5 establishes that any person, who knowingly mutilates, disinters, wantonly disturbs, or willfully removes any human remains in or from any location without authority of law is guilty of a misdemeanor. It further defines procedures for the discovery and treatment of Native American human remains.

3.5.1.2.8 Madera Oversight Coalition, Inc. v. County of Madera

In the past, it was common practice for many CEQA practitioners to provide performance-based mitigation for cultural resources, stipulating that further evaluation and treatment of resources would be performed in the future. The 2011 decision from the Madera Oversight Coalition, Inc. v. County of Madera (2011) 199 Cal. App.4th 48 case held this practice to be unacceptable under CEQA and required evaluation of cultural resources subject to CEQA at a level sufficient to characterize the resources prior to EIR certification, not during pre-construction or construction stages of a project. This approach was used for this IS/MND.

3.5.1.2.9 Assembly Bill 52

Assembly Bill 52 changes sections of the public resources code to add consideration of Native American culture within CEQA. The goal of AB 52 is to promote the involvement of California Native American Tribes in the decision-making process when it comes to identifying and developing mitigation for impacts to resources of importance to their culture. To reach this goal, the bill establishes a formal role for tribes in the CEQA process. CEQA lead agencies are required to consult with tribes about potential tribal cultural resources in the project area, the potential significance of project impacts, the development of project alternatives, and the type of environmental document that should be prepared. AB 52 specifically states that a project that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment (PRC Section 21084.2).

3.5.1.3 Local Regulations

3.5.1.3.1 Nevada County General Plan

The following goals and policies outlined in the Nevada County General Plan were considered when analyzing potential proposed Project-related impacts to cultural resources:



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Goal 19.1: Identify and protect and where economically feasible restore significant archaeological and historic resources.

Objective 19.1: Encourage the inventory, protection and interpretation of the cultural heritage of Nevada County, including historical and archaeological landscapes, sites, buildings, features, artifacts.

Policy 19.2: Encourage the inclusion of significant sites or districts in the Federal or State Historical Register based on the recommendation of local historical societies.

Objective 19.2: Implement development standards, including the preservation of open space, to protect identified significant cultural sites.

Policy 19.4: Incorporate cultural and historic resource management standards in the Comprehensive Site Development Standards, for use in project review of all discretionary project permits. These standards shall provide for the use of clustering and restricted building sites as techniques for the preservation of significant cultural resources.

Policy 19.6: Require all applications for discretionary project permits, and all applications for ministerial project permits except single family residences on individual lots shall be accompanied by a Site Sensitivity Literature Review, prepared by a qualified archaeologist or entity such as the North Central Information Center, Department of Anthropology, California State University at Sacramento.

Where review indicates significant archaeological or historical sites or artifacts are, or are likely, present, on-site field review shall be required. If a site or artifacts are discovered, the find shall be evaluated and potential significance determined. If significant cultural resources may be directly or indirectly impacted by proposed development, appropriate mitigation shall be developed and implemented in accordance with CEQA standards, including Appendix K, prior to onset of ground disturbance. Avoidance of significant cultural resources shall be considered the mitigation priority. Excavation of such resources shall be considered only as a last resort when sufficient planning flexibility does not permit avoidance. On-site field review, evaluation of site significance, and development of mitigation measures, as identified above, shall be performed by a qualified professional archaeologist.

Objective 19.3: Include in the development review process consideration of historic, cultural, and Native American concerns and values.

Policy 19.7: Cooperate with local historical societies and the Native American Indian community to protect significant historical, cultural and archaeological artifacts, improve access to and interpretation of unrestricted resources and archaeological history by involving them in the development review process.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.5.1.3.2 City of Nevada City General Plan

Goal: The City aims to continue its efforts to preserve and enhance the architectural diversity of historic buildings in the central area, to maintain the remarkable collection of city-owned historic buildings, and to encourage private efforts of historic preservation and restoration. (Page 9, City of Nevada City General Plan, 1986)

Goal: Whereas many other Mother Lode towns are being surrounded by modern subdivisions and commercial development, the Nevada City Basin remains nearly pristine. The City seeks means to preserve its sense of a historic town surrounded by open forest. (Page 9, City of Nevada City General Plan, 1986)

Objective: Maintain the dominance of the city's primary, nineteenth-century historic period. Allow new development, which is complementary to the form and scale of its context. (Page 37, City of Nevada City General Plan, 1986)

Objective: Ensure continued concentration of public and cultural activities that reinforce the historic core as the "heart" of Nevada City. (Page 37, City of Nevada City General Plan, 1986)

Policy: Encourage private efforts at historic rehabilitation and restoration. (Page 37, City of Nevada City General Plan, 1986)

Policy: Seek innovative means to maintain and improve city-owned historic buildings (leases to appropriate private use, grants from private and/or government sources). (Page 37, City of Nevada City General Plan, 1986)

Policy: Formulate design guidelines laying out the essential elements constituting Nevada City's special "flavor." These guidelines would be a handbook to prospective developers and a guide for evaluation by the architectural review committee. (Page 37, City of Nevada City General Plan, 1986)

Policy: Retain a maximum amount of city and county government functions in downtown Nevada City. (Page 37, City of Nevada City General Plan, 1986)

Policy: Encourage appropriate infill uses in downtown (e.g., visitor accommodations and cultural facilities). (Page 37, City of Nevada City General Plan, 1986)

3.5.2 Environmental Setting

The proposed Project is located in Nevada County in the City of Nevada City situated in the foothills on the western slope of the Sierra Nevada Mountains at an average elevation of approximately 2500 feet (762 meters). The regional climate is generally Mediterranean it consists of summer droughts and cold winters with average annual precipitation within the Little Deer Creek watershed of approximately 53.9 inches (1.4 meters) per year. Temperatures vary greatly from the low 30 degrees Fahrenheit in the winter months to high 90 degrees Fahrenheit in the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

summer. Little Deer Creek is part of and within the Proposed Project Area, a tributary of Deer Creek which eventually connects the Yuba River. The area is dominated by residential and recreational uses.

3.5.2.1.1 Buried site sensitivity

Assessing the sensitivity for an area to contain buried archaeological sites takes into consideration the potential for the presence of buried cultural deposits by examining past use of the Project area; factors that support human occupations such as access to resources and water; slope; and the underlying geomorphology of the area. Generally speaking, a large proportion of archaeological sites are located within 150 meters of a water source and on relatively flat ground. Portions of the Project that occur within these parameters (i.e., within 150 meters of a natural water source and are on relatively flat ground) have an increased potential to contain buried cultural resources and buried stable land surfaces that may have supported life prehistorically and/or historically. This section summarizes the archaeological buried site sensitivity for the Project Area.

According to the Geologic Map of California (Department of Conservation, 2010), the Project Area is underlain by plutonic rocks dating to the Mesozoic (Mesozoic granite, quartz monzonite, granodiorite, and quartz diorite [248-65 MYA]). According to the USDA NRCS Web Soil Survey, soils in the area are primarily comprised of cut and fill materials and Placer diggings, with small portions of the Project of Hoda sandy loam. Little Deer Creek is also within the Project Area.

Given the fill nature of the soils within the Project Area, the rocks underlying the Project Area dating to the Mesozoic (248-65 MYA) and no inadvertent cultural resource discoveries during past construction Projects within Pioneer Park, the potential for buried cultural resources is considered low.

3.5.2.2 Prehistoric Context

3.5.2.2.1 Early and Middle Holocene

The cultural prehistory of Central California spans more than 12,000 years. The earliest evidence for occupation of the region comes from archaeological assemblages attributed to the Fluted Point Tradition (FPT) and Western Stemmed Tradition. Commonly referred to as the Clovis culture, the FPT is generally associated with hunting of large, now extinct, megafauna such as mammoth, mastodon, sloth, camel, etc. In the far West, however, archaeological sites with FPT components suggest that these highly nomadic people were practicing a more broad-spectrum subsistence strategy. In the Great Basin and California, FPT sites are often associated with former strandlines of ancient pluvial lakes and marshlands that were once resource rich, but are now arid and inhospitable. FPT sites are sometimes associated with streams, springs, ponds, and river terraces.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

FPT assemblages in California have not been firmly dated because most finds have been made on the surface, precluding the possibility of correlating the artifacts to datable features. On the Plains and in the Southwest, Clovis assemblages have been dated to between 11,500-10,900 years before present (B.P.) (Haynes, 1991), which corresponds to the terminal Pleistocene. (Note: BP is a scientific standard in archaeology. BP stands for "Before Present" and is used when referring to an age estimate produced through radiocarbon dating. For the purposes of the age estimate, the "Present" is taken to be the year 1950 when the application of radio carbon dating technology was generally initiated).

The FPT is characterized by long fluted and bi-facially flaked stone points. The bifaces tend to have slightly convex or parallel sides with a concave base. Other artifacts identified at the Clovis type-site, Black Water Draw #1 in New Mexico, include retouched bone, small triangular points, large lanceolate points, retouched flakes, crescents, and hammerstones. Sites in California that have yielded artifacts attributed to the FPT include Tulare Lake (Riddell and Olsen, 1969), Borax Lake (Harrington, 1948; Meighan and Haynes, 1970), China Lake (Davis, 1978), Ebbetts Pass (Davis and Shutler, 1969), and Tracy Lake (Beck, 1971), among others.

Although the FPT is generally assumed to represent a highly specialized subsistence strategy focused on hunting megafauna, a growing body of evidence suggests that a much wider range of habitats and resources were being exploited (Chartkoff and Chartkoff, 1984; Willig and Aikens, 1988). Furthermore, archaeological evidence suggests that people of the FPT practiced a high degree of residential mobility. This fact is attested to by the presence of exotic raw materials in tool assemblages (often from sources hundreds of miles away) and the technological organization inferred from assemblages.

Roughly coeval, or occurring just after the FPT in the West, is the Western Pluvial Lakes Tradition (WPLT) (Bedwell, 1973). As the name suggests, WPLT sites are often associated with ancient lakes fed by receding glaciers that were once common west of the Rockies. Documented from Northern Mexico to Canada, the WPLT is characterized by large stemmed and shouldered projectile points, crescents, lanceolate points, and core tools. The WPLT existed for thousands of years, from approximately 11,000 to 7,500 B.P (Willig, 1988; Moratto, 1984). Based on early dates taken from the Smith Creek Cave site in Nevada, Bryan (1981) has argued that the WPLT may have been a contemporary of the FPT (11,140 plus or minus 200 B.P.).

The dearth of early Holocene sites in the Sacramento Valley has been noted by a number of researchers and has often been attributed to the rapid sedimentation of the valley that has occurred throughout the Holocene epoch (Milliken, 1995; Moratto, 1984).

The handful of sites attributed to the Middle Holocene occur along the valley's margin, where it meets the Sierra foothills. Occupations of the Farmington Complex, Clarks Flat sites, and Sky Rocket sites have been attributed to the Middle Holocene (Riddell, 1949; Treganza, 1952; Milliken, 1995). Assemblages from these sites are dominated by stemmed points, points resembling Pinto series, and formal flake tools.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.5.2.2.2 Late Holocene

Archaeological sites dated to the latter half of the Holocene have been documented in much greater numbers and detail in the Sacramento Valley compared to the preceding periods. The following discussion focuses on regional prehistory between 4,500 B.P. to Euro-American contact.

Early efforts to describe the cultural prehistory of the Central Valley focused on archaeological sites with burial features located in close proximity to the Sacramento and San Joaquin Delta and its surrounding tributaries (Meredith, 1900; Schneck and Dawson, 1929; Lillard et al., 1939; Lillard and Purves, 1936; Heizer and Fenenga, 1939; Beardsley, 1948, 1954; Heizer, 1949). Chief among such sites is CA-SAC-107, the Windmill Site, located on the Cosumnes River. The Windmill Site figured prominently in the development of the Central Valley cultural sequence since it contained three distinct, stratified components. Investigations undertaken in the Central Valley in the first half of the Twentieth Century culminated in the development of a tripartite cultural sequence that came to be known as the Central California Taxonomic System (CCTS).

Since its inception, the CCTS has been revised to accommodate new data, most notably by Fredrickson (1974) and Bennyhoff (1994). While the CCTS is geographically biased to portions of the Central Valley south of the proposed project area, the following discussion provides a set of expectations regarding potential material remains within the proposed RWSP area. The discussion retains the original terminology of periods that are distinguished on the basis of adaptive strategies, technology, and chronology.

3.5.2.2.3 The Early Period (4,500 to 2,500 B.P.)

The Early Period is distinguished, primarily, by a mortuary artifact assemblage that included dart and spear points made primarily of chert or slate, charmstones, bone tools, *Halotis* beads and ornaments, Olivella beads, red ochre, and quartz crystals. Artifacts attributed to the period, such as projectile points, shell beads and pendants, baked-clay objects, and highly polished charmstones, reflect the heightening of cultural trends that started in the Middle Holocene. Utilitarian items found in Early Period assemblages include milling stones, mortars, pestles, bone tools such as fishhooks, harpoon tips, awls, and pins. The subsistence economy of the tradition emphasized the hunting of deer and other game, salmon fishing, and acquisition of seed resources. The process for leaching the tannins out of acorns, thus making them suitable for human consumption, was developed during this period (Chartkoff and Chartkoff, 1984). In retrospect, the fact that early formulations of artifact inventories associated with Early Period sites generally did not include plant processing artifacts results largely from the myopic focus on burial mound features (Shapiro *et al.*, 2004).

3.5.2.2.4 The Middle Period (2,500 to 1,300 B.P.)

The Middle Period in Central California prehistory is marked by changing subsistence strategies that developed subsequent to the Early Period and by a broadening in the variety and materials of utilitarian and ornamental artifacts. Bone and antler artifacts appear in greater number and



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

include wands, beaver mandibles, tubes, whistles, incised gaming pieces, needles, atlatl spurs, barbless harpoon tips, and ground sturgeon mouth plates and wedges (Shapiro et al., 2004). Other artifacts characteristic of the period include large obsidian and chert concave- and stemmed-based projectile points, charmstones, Olivella beads, Haliotis beads and ornaments, quartz crystals, millingstones and handstones, red ochre, asphaltum, chrysolite asbestos splinters, steatite tubes and earplugs, slate pendants, baked-clay spools, net weights, and occasional mortars and pestles (Heizer, 1939:382; Shapiro et al., 2004).

A significant technological development evident in the middle Period is the appearance of a baked- clay industry to produce items such as net weights used for fishing and hunting fowl. Atlatl and dart technology that favored obsidian for the production of projectile points continued to be used.

During the middle Period, populations were increasing and villages became more numerous, particularly on the banks and rises above the major rivers flowing out of the Sierra Nevada to the east. Utilitarian tools used in hunting and vegetal food processing became more widespread. Trade networks were expanding at this time, as indicated by the increasing amount of exotic obsidian and seashell ornaments offered as grave goods. Burial styles became somewhat more variable over the preceding period as individuals were interred in flexed and extended positions.

Violence was apparently on the rise during this period, as indicated by projectile points found imbedded in human skeletons. Such clashes may have resulted from the competition over finite resources (Beardsley, 1954; Lillard et al., 1939; Ragir, 1972).

3.5.2.2.5 The Late Period (1,300 to 100 B.P.)

The Late Period is marked by changes in subsistence technologies, intensification of resources, and increased socio-political complexity. A hallmark of Late Period technology in Central California is the introduction of the bow and arrow. This important shift is evidenced by the appearance of small projectile points in the archaeological record. Acorn exploitation was intensified during this period as indicated by the widespread association of mortars and pestles with Late Period occupations. Salmon exploitation also peaked during this period and was supplemented by the hunting of game such as deer, elk, and antelope. Waterfowl, hard seeds, and other resources were also pursued.

Artifacts that characterize Late Period occupations include Haliotis ornaments and whole shells, beads made of Haliotis, Olivella, and clamshell, magnesite and steatite, small chert and obsidian arrow points, ear spools and tubes, mammal-bone tubes, incised bird-bone whistles, barbed harpoon tips, antler arrow shaft straighteners, baked-clay objects, wooden fishhooks, netting and basketry items, as well as mortars and pestles (Heizer, 1939:383; Shapiro et al., 2004).

During the Late Period, banks and rises above the lower Sacramento River supported large villages, whose size and density suggest an increasing population over the preceding period. Trade networks were more developed in Late Period times, and exotic goods from the Pacific



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Coast and Great Basin were common, especially in burials. Social stratification is clearly evident in burials of this time period. Cremation of the dead was introduced during this period, although flexed burial of the dead continued (Chartkoff and Chartkoff, 1984; Ragir, 1972). Several classes of utilitarian artifacts, such as milling tools, become extremely rare, while decorative and ornamental artifacts, such as modified bird bone and large obsidian bifaces, increase in frequency.

The CCTS has been the subject of much debate over the past 50 years. The system has been criticized because it does not reflect the great diversity represented in the archaeological record of Central California. Aspects of culture such as subsistence and settlement systems, social organization, and other patterned behavior were largely ignored by the early renderings of the CCTS due to its bias towards material remains (Waechter and Mikesell, 1994). Despite its shortcomings, the CCTS remains the dominant paradigm for Central California prehistory.

Based on a review of archaeological literature discussed above, archaeological remains that may be expected in the region include: flaked stone scatters, baked-clay objects, groundstone milling tools, shell middens, as well as habitation sites.

3.5.2.3 Ethnographic Context

The proposed project study area is located in the Sierra Nevada foothills. This area is within territory that was traditionally occupied by the Hill Nisenan, also referred to as Southern Maidu. These Penutian-speaking peoples occupied the drainages of the southern Feather River and Honcut Creek in the north, through the Bear, Yuba, and American River drainages to the south. Their ethnographic territory extended from the crest of the Sierra Nevada, west to the Sacramento River.

Primary sources on Nisenan ethnography include Beals (1933), Faye (1923), Gifford (1927), Kroeber (1925), Littlejohn (1928), and Wilson and Towne (1978). The following summary is based primarily on Wilson and Towne (1978).

The basic social unit for the numerous Nisenan tribelets was the family. Tribelets were typically governed by a headman and tended to have one or more permanent village sites with smaller seasonal/temporary camps scattered throughout the tribelet territory for logistical resource procurement. Tribelets sharing similar cultural elements and linguistic traits comprised "nonpolitical ethnic groups," which have been grouped by ethnologists into the language families we are familiar with today. Villages were frequently located on flats adjoining streams, and were inhabited mainly in the winter as it was usually necessary to go out into higher elevation zones to establish temporary camps during food gathering seasons (i.e. spring, summer and fall) (Kroeber, 1925:395).

Nisenan territory offered abundant year-round food sources. Food gathering was based on seasonal ripening, but hunting, gathering, and fishing occurred year round, with the greatest activity in late summer and early fall. The Nisenan gathered many different staples and as such did not depend on one specific resource (Wilson and Towne, 1978).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Seasonal harvests could be communal or personal property. Most activities and social behaviors such as sharing, trading, ceremonies, and disagreements were important adjuncts to the gathering and distribution of food. Extended families or entire villages of Hill Nisenan would gather acorns. Men would hunt while women and children gathered acorns knocked from trees. Buckeye nuts, sugar and gray pine nuts, and hazelnuts were gathered as well (Wilson and Towne, 1978).

Acorns were cracked on an acorn anvil and shelled. They were then ground into flour using a bedrock mortar and a soaproot brush was used to control scattering. The flour was leached to remove the tannins and then cooked in watertight baskets. Cooking was done with fire-heated stones that were lifted with two sticks, dipped in water to clean them, and then dropped into the cooking basket.

Enough soup and mush was usually prepared for several days. Roots were dug with a digging stick in the spring and summer and were eaten raw, steamed, baked, or dried and pounded in mortars and pressed into cakes to be stored for winter use. Wild onion, sweet potato, and "Indian potato" were the most desired. Wild carrot was used as medicine while wild garlic was used to wash the head and body. Grasses, herbs, and rushes provided food and material for clothing and baskets. Seeds were gathered using a seed beater and tray. They were then parched, steamed, dried, or made into mush.

Many varieties of wild plums, native berries, grapes, and other native fruits were eaten. Manzanita berries were often traded to the valley or made into a cider-like drink. Game was baked, roasted, or dried (Wilson and Towne, 1978; p.389).

Deer drives were common, with several villages participating and the best marksman doing the killing. The animals were often driven into a circle of fire and then killed. Deer were also hunted using deadfalls, snares, and deerskin and antler decoys. The bear hunt was very ceremonial and usually took place during the winter. Lighted brands were often used to drive them from their dens.

3.5.2.4 Historic Context

3.5.2.4.1 Spanish Period

In the early 17th century, Spanish explorers first set foot in California; however attempts to colonize did not begin until 1763 when missions were established along California's coast. Early colonization of California remained at the coastal regions, while California's interior was explored through a series of expeditions. Recorded history in the general vicinity of the project area begins with one such expedition. Gabriel Moraga's journey through the area north of the San Francisco Bay area was undertaken in 1808, with additional incursions to California's interior occurring through the 1820s (Beck and Haase, 1974). However, Moraga's expedition did not result in a settlement near the project area. By the time the Mexican government gained control of California in 1821, the Spanish had established twenty missions, four presidios, and three pueblos.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.5.2.4.2 Mexican Period

In August 1821 the Treaty of Cordova was signed, recognizing the independence of the Mexican Empire (Rives, 1913). This event marked the beginning of the short-lived Mexican Period in the history Alta California. Mexico codified its policy of colonization of the frontier lands in 1824 (Hayes, 2007). The young government sought to fend off foreign influence by granting private property to native Mexicans and naturalized citizens. In 1828 the regional governors were given authority to issue grants, yet were precluded from implementing it in areas subject to mission control. Following secularization, vast expanses of Alta California were available for grants, the majority of which were made after 1834.

A Mexican land grant was issued for a parcel just west of the project area in modern day Yuba County. Governor Micheltorena granted five square leagues to Don Pablo Gutierrez in 1844, who was an employee of General Sutter (Burgess et al. 2007: 146). Gutierrez built an adobe house on the Rancho de Pablo, which included lands along the northern side of the Bear River (Hoover et al., 1990). Gutierrez was killed in 1844 during the Micheltorena Campaign, and General Sutter, being the magistrate for the region, subsequently auctioned the rancho on December 22, 1844 (Gudde, 1998). The rancho title was then granted to Americans William Johnson and Sebastian Kayser, Johnson taking the eastern half and Kayser the western half.

3.5.2.4.3 American Period

European Americans began arriving in the mid-1820's, most notably with the trapping expeditions of Jedediah Strong Smith. Unlike the San Francisco Bay Area and Southern California, which were explored by missionaries and placed under Spanish land grants as early as the 18th century, the area that is now Placer County remained relatively unsettled until the 1830s, when early immigrants established wagon trails through Oregon into California (Myer, 2002; p. 19). In 1844, with the aid of local Nisenan traders, the Stephens-Townsend-Murphy Party was the first wagon train to pass through the Sierra Nevada into California. The trail that they followed would become known as the "Placer County Emigrant Trail." (Myer, 2002; p. 20)

The population of emigrants to California boomed when James Marshall discovered gold along the American River on January 24, 1848, just ten miles from the current Placer County border (Myer, 2002; p.29). Once over the rocky terrain, emigrants usually stopped at William Johnson's ranch, which was located on the Bear River about 40 miles north of Sutter's Fort on the Placer County border. In 1849, over 30,000 wagon trains were estimated to have travelled into California via the Emigrant Trail.

Settlers moved to the region looking to strike it rich in the mining industry (Myer, 2002; p.20). The Hill Nisenan lived in the prime gold hunting areas. After the discovery of gold near their villages, their environment was altered forever. The majority of the tribe's people were killed by epidemics, forced into slavery, or made to walk hundreds of miles to their deaths. A surviving few remained on the land by intermarrying with white settlers (Myer, 2002; p. 16-17).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Other historically prominent individuals who resided near the project area include Theodore Sicard, a French sailor, who settled in the immediate vicinity in 1844. Sicard constructed an adobe house on the south bank of the Bear River approximately six miles northeast of Johnson's Crossing and approximately six miles east of the present project area. In May of 1848, about four months after Marshall's original discovery at Coloma, Claude Chana, of Burgundy, France, found several "good- sized specimens" of gold in a ravine located between present-day Ophir and "Old Town" Auburn (Myer, 2002; p.26). After his discovery, Chana moved his men further up the ravine and began the "North Fork Dry Diggins" mining operations (Hoover et al., 1990). From this point on through the mid- 1880s, the area became known as the Lincoln Mining District and was intensively mined for gold (Clark, 1970). By the end of that year, 4,000 miners had settled in the vicinity of the American, Bear and Yuba Rivers in pursuit of placer deposits (Myer, 2002; p.29). Two years after the discovery of gold, on September 9, 1850, California achieved statehood. Soon thereafter, Placer County was created out of parts of Sutter and Yuba counties, its boundaries long since established by indigenous Nisenan trade routes (Myer: 2002; p.40-41).

Mining along virtually every stream and river within this part of California was underway by 1850. Drift, or hard rock, mining was initiated as early as 1850 along Deer and Slate Creeks within the Nevada City District, and Wolf, Rattlesnake, Greenhorn, and Magnolia Creeks within the Grass Valley District. In addition, placer mining continued to yield large quantities of gold through the next several years, and by 1855 mining-support industries around Auburn, Grass Valley, and Nevada City included stores, transportation companies, saloons, foundries, lumber mills, water companies, toll roads, and stage lines.

3.5.2.4.4 Water Companies

Companies that specialized in water and ditch digging had a significant impact on early mining through the 1880s. Drift, hydraulic, and quartz mining were some of the various forms of mining in the early 1850s that demanded the use of water in order to expose gold-rich deposits buried below the surface. The first mining ditches were dug in order to get water to dry diggings. Miners often pooled their money and efforts together to form companies that could afford the costs and labor associated with the construction of water canals. Some of these companies later specialized in selling water rather than directly supporting the mining industry (Caltrans and JRP Historical Consulting Services, 2000: 33).

3.5.2.4.5 Hydraulic Mining

Because placer and lode mining rapidly depleted surface deposits, hydraulic mining was introduced in 1853 to more efficiently collect gold from riverbeds. High-pressure water washed gold-bearing gravel into sluice boxes where gold was extracted. Nitroglycerin dynamite was also used to dislodge minerals from hard rock deposits and canals were dug to divert river water. Hydraulic mining spurred a boom in the industry and dozens of mining camps appeared almost overnight throughout Nevada County. Hydraulic mining severely impacted the environment by eroding hillsides and causing subsequent flooding. The Sawyer Decision of 1884 effectively brought an end to hydraulic mining in the area. Affected by the ban on hydraulics, many of the newly formed mining camps fell into rapid decline and disappeared almost as quickly as they had shown up (Myer, 2002; p. 31-33).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.5.3 Impact Analysis

This section analyzes the project's potential to result in significant environmental impacts to cultural and paleontological resources. When an impact is determined to be significant, mitigation measures are identified that would reduce or avoid that impact, if feasible.

3.5.3.1 Methodology

3.5.3.1.1 Records Search

As part of the study, a records search was conducted at the North Central Information Center (NCIC) of the California Historical Resources Information System (CHRIS) by NCIC staff, on June 13, 2016 (NCIC File No. NEV-16-29) for the proposed Project area and a quarter-mile buffer. The NCIC, an affiliate of the State of California Office of Historic Preservation, is the official state repository of archaeological and historic records and reports for a six-county area that includes Nevada County, and it is housed at California State University, Sacramento.

The records search for this study was performed in order to: (1) determine whether known cultural resources had been recorded within or adjacent to the study area; (2) assess the likelihood of unrecorded cultural resources based on archaeological, ethnographic, and historical documents and literature; and (3) to review the distribution of nearby archaeological sites in relation to their environmental setting.

The record search included a review of all cultural resources and reports within a quarter-mile of the proposed Project area. The records search utilized the Nevada City U.S. Geological Survey 7.5-minute quadrangle map. Other sources reviewed included the Office of Historic Preservation (OHP) Historic Properties Directory, Archaeological Determinations of Eligibility, California Inventory of Historical Resources (1976), Caltrans Bridge Survey, Ethnographic Information, Historical Literature, Historical Maps, and Soil Survey Maps.

The National Register of Historic Places (NRHP) and California Register Historical Resources (CRHR) databases were also reviewed and no NRHP or CRHR are within or immediately adjacent to the Project Area. The Project area is also outside the Nevada City Downtown Historic District.

The records search revealed that no previously recorded cultural resources or cultural resource studies have been recorded in the proposed Project area. However, one historic cultural resource was previously recorded and two cultural resource studies were previously completed within a quarter-mile radius of the Project area (See Table 3.5-2). (NCIC 2016)

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.5-1 Previously Recorded Cultural Resources

Primary Number	Resource Name	Age	Within Project Area
P-29-3046	Rough and Ready Ditch	Historic	No

Table 3.5-2 Previous Cultural Resources Studies

Document Number	Year	Author(s)	Title	Within Project Area
2468	1999	Levy, David	Confidential Archaeological Addendum for Timber Operations on Non-Federal Lands in California for Mociun THP.	No
5355	2002	Jensen, Peter M.	Archaeological Inventory Survey for St. Francis Woods Development Project	No

3.5.3.1.2 AB 52 Native American Consultations

The proposed Project requires compliance with Assembly Bill 52 which requires the CEQA lead agency (City of Nevada City) to consult with tribes about potential tribal cultural resources in the project area, the potential significance of project impacts, the development of project alternatives, and the type of environmental document that should be prepared. Below is a summary of the AB 52 consultations for the proposed Project.

On August 31, 2016, the City of Nevada City sent consultation letters to the Colfax-Todds Valley Consolidated Tribe, Washoe Tribe of Nevada and California, Nevada City Rancheria, T'si-Akim Maidu, and United Auburn Indian Community of the Auburn Rancheria (UAIC).

The UAIC sent a letter on September 14, 2016 requesting to consult on the proposed Project. In the letter, the UAIC requested copies of any Project archaeological or environmental reports, requested to participate in the cultural resources survey for the proposed Project, and recommended that a tribal monitor be present during any Project ground disturbing activities as the UAIC's preservation committee identified cultural resources in and around the project area. In response to the UAIC's letter, the City emailed the UAIC on October 24, 2016 and proposed a discussion of the UAIC's recommended tribal monitoring during project construction and a site visit with UAIC representatives. The City also called the UAIC representative on October 26th and left a voicemail. On November 1, 2016, the City sent a follow up email to the UAIC reviewing the UAIC's requests and asking for a response. No response from the UAIC has been received to date.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

No response was received from any other Native Americans contacted for the proposed Project.

3.5.3.1.3 Field Survey

A Stantec archaeologist conducted intensive-level pedestrian surveys of the proposed Project area and adjacent areas on June 23, 2016 and August 12, 2016. The proposed Project area was evaluated for the presence of prehistoric and historic site indications.

Site indicators for the presence of prehistoric sites in this area may include, but are not limited to: ground depressions; darkened soil areas indicative of middens; fire scorched and/or cracked rock; modified obsidian, chert, or other vitreous materials; and grinding stones including manos and metates. Historic era artifacts may include, but are not limited to: metal objects including nails; containers or miscellaneous hardware; glass fragments; ceramic or stoneware objects or fragments; milled or split lumber; trenches; feature or structure remains such as buildings or building foundations; and trash dumps.

The survey used transects spaced no more than 30 meters apart and examined the entire proposed Project area. Ground visibility was fair to poor and was covered with grasses/vegetation and paved roads/walkways in and around Pioneer Park. The survey found that the proposed Project area has been subject to historic and modern disturbances including, but not limited to: Initial and continued development of Pioneer Park and the surrounding residential neighborhood. During the survey, Pioneer Park was identified as an historic cultural landscape and was recorded and evaluated. Table 3.5-3 below describes the resource in more detail.

Table 3.5-3 Cultural Resources within the Project Area Recorded During Field Surveys

Resource Name	Age	CRHR Eligible
Pioneer Park	Historic	Recommended Eligible

Pioneer Park, is a city-owned community park on five parcels (APN# 05-440-02-000, 05-440-03-000, 05-460-17-000, 05-460-51-000, 36-370-49-000) that includes 40 architectural features constructed between 1933 and 2011. Pioneer Park is recommended as eligible for the CRHR under Criterion 1, for the Park's association with significant events in state and local history.

While the proposed Project is within Pioneer Park, which is recommended as eligible to the CRHR, the proposed Project would not impact this potentially eligible resource.

No other cultural resources were observed within the proposed Project area.

Table 3.5-7 below discusses the potential Project-related impacts relative to cultural resources for the Project.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.5-4 CEQA Checklist for Assessing Project-Specific Potential Impacts to Soils and the Potential for Impacts to Cultural Resources

V. CULTURAL RESOURCES: Would the Project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as identified in Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a) *Would the Project cause a substantial adverse change in the significance of a historical resource as identified in Section 15064.5?*

Finding: Less than significant with mitigation incorporated

There is one historical resource within the Project area, Pioneer Park. Pioneer Park is recommended as eligible for the CRHR under Criterion 1, for the Park's association with significant events in state and local history. While the proposed Project is within Pioneer Park, which is recommended as eligible to the CRHR, the proposed Project would not impact this potentially eligible resource. As such the proposed project will not cause substantial adverse change in the significance of an historical resource as identified in Section 15064.5. No other cultural resources were observed within the study area. The likelihood of encountering a significant historical resource in this previously disturbed area is unlikely. However, the possibility for encountering unanticipated cultural resources during construction of the proposed Project is always a possibility and Mitigation Measure CULTURAL-1 is required to reduce impacts to a less than significant level.

b) *Would the Project cause a substantial adverse change in the significance of an archaeological resource as identified in Section 15064.5?*

Finding: Less than significant with mitigation incorporated

The UAIC sent a letter on September 14, 2016 requesting to consult on the proposed Project. In the letter, the UAIC recommended that a tribal monitor be present during any Project ground disturbing activities as the UAIC's preservation committee identified cultural resources in and around the project area. In response to the UAIC's letter, the City emailed the UAIC on October



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

24, 2016 and proposed a discussion of the UAIC's recommended tribal monitoring during project construction and a site visit with UAIC representatives. The City also called the UAIC representative on October 26th and left a voicemail. On November 1, 2016, the City sent a follow up email to the UAIC reviewing the UAIC's requests and asking for a response. No response from the UAIC has been received to date. While no specific cultural resources were identified by the UAIC to date, the City will work with the UAIC to avoid impacts to any cultural resources within the proposed Project.

There is one historical resource within the Project area, Pioneer Park. Pioneer Park is recommended as eligible for the CRHR under Criterion 1, for the Park's association with significant events in state and local history. While the proposed Project is within Pioneer Park, which is recommended as eligible to the CRHR, the proposed Project would not impact this potentially eligible resource. As such the proposed project will not cause substantial adverse change in the significance of an historical resource as identified in Section 15064.5. No other cultural resources were observed within the study area.

The likelihood of encountering a significant cultural resource in this previously disturbed area is unlikely. However, the possibility for encountering unanticipated cultural resources during construction of the proposed Project is always a possibility and Mitigation Measure CULTURAL-1 is required to reduce impacts to a less than significant level.

c) *Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

Finding: Less than significant with mitigation incorporated

There are no known significant paleontological sites or deposits within the Project area and the project site has been previously disturbed. However remote, the possibility for encountering paleontological resources during construction of the proposed Project does exist. Therefore, Mitigation Measure CULTURAL-1 is required to reduce impacts to a less than significant level.

d) *Would the Project disturb any human remains, including those interred outside of formal cemeteries?*

Finding: Less than significant with mitigation incorporated

There are no known human burials or remains within the Project area and the likelihood of encountering a burial is limited. In the event that human remains are encountered during construction of the proposed Project, Mitigation Measure CULTURAL-2 will be employed to reduce impacts to a less than significant level.

3.5.4 Mitigation

Mitigation Measure CUL-1: Proper Handling of Inadvertent Discovery of Cultural and Paleontological Resources



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

If cultural resources are encountered during proposed Project construction, construction shall be halted immediately in the subject area and a qualified professional archaeologist shall be consulted. Prehistoric resources may include chert or obsidian flakes, projectile points, mortars and pestles, dark friable soil containing shell and bone dietary debris, and heat-affected rock. Historic resources may include stone or wood foundations or walls, structures or remains with square nails, and refuse deposits.

If any paleontological resources (i.e., fossils) are found during proposed Project construction, construction shall be halted immediately in the subject area and the City shall be immediately notified. A qualified paleontologist shall be retained to evaluate the find and recommend appropriate treatment of the inadvertently discovered paleontological resources. The appropriate treatment of inadvertently discovered paleontological resources shall be implemented to ensure that the impacts to these resources are avoided.

If the City or its contractor finds archeological, paleontological, or human remains, the City and its contractor will stop work and isolate the area using orange or yellow fencing until the appropriate regulatory agency is contacted and clears the area for future work. The City at its discretion can move construction activities and restart activities at a distance not expected to affect or disturb the find. Work can proceed away from the area of the find but cannot proceed toward the area of the find. If the City resumes work in a location where archaeological, paleontological, or human remains have been discovered and cleared, the City will have an archeologist onsite to confirm that no additional archaeological resources are in the area.

Mitigation Measure CUL 1 Implementation

Responsible Party: The City would ensure the appropriate treatment for any discovery of prehistoric, historic, or paleontological resources during construction.

Timing: During all ground disturbing activities.

Monitoring and Reporting Program: If any find is determined to be significant, representatives of the City and a qualified archaeologist or paleontologist (if a paleontological resource is discovered) would meet to determine the appropriate avoidance measures or other appropriate mitigation. All significant cultural materials and paleontological resources recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist or paleontologist (if a paleontological resource is discovered) according to current professional standards. A report shall be kept on file at the City offices.

Standards of Success: The proper recording, evaluation, and treatment of any newly identified prehistoric, historic, or paleontological resources.

Mitigation Measure CUL-2: Proper Handling of Inadvertent Discovery of Human Remains

If human remains are encountered, work shall halt in the vicinity and the County Coroner shall be notified immediately pursuant to PRC Section 7050.5. At the same time, an archaeologist



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

shall be contacted to evaluate the situation. If human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification. The NAHC shall identify the person or persons it believes to be the most likely descendent (MLD) from the deceased Native American. The MLD shall have an opportunity to make a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.

Mitigation Measure CUL-2 Implementation

Responsible Party: The City and the Nevada County Coroner would ensure the appropriate treatment for any discovery of any human remains during construction.

Timing: During all ground disturbing activities.

Monitoring and Reporting Program: The recording and evaluation of any newly identified human remains shall be conducted by qualified professional archaeologists and a report shall be kept on file at the City offices.

Standards of Success: The proper recording, evaluation, and treatment of any newly identified human remains.

3.6 GEOLOGY AND SOILS

3.6.1 Regulatory Setting

3.6.1.1 Seismic Related Regulations

The Alquist Priolo Zoning Act requires the mapping of zones around active faults in California, in an effort to prohibit the construction of structures for human occupancy on active faults and minimize damage due to rupture of a fault (USGS 2012). The Seismic Hazard Mapping Act

(SHMA) of 1990 is intended to delineate zones where earthquakes could cause hazardous ground shaking and ground failure. Both of these acts require local cities and counties to regulate activities within these zones. Additionally, Title 24 of the California Code of Regulations, the California Standard Building Code, contains specific requirements for construction with respect to earthquakes intended to be protective of public health; however, as a restoration project that does not include structures, the building code does not apply (Government Code Section 53091).

3.6.1.2 Nevada County General Plan

The Nevada County General Plan contains elements to control erosion, including:

Goal 12.1: "Minimize adverse impacts of grading activities, loss of soils and soil productivity".

Specifically, the county enforces a Grading Code (Section L-V Article 19 of the Nevada County Land Use and Development Code) with the scope of "...sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishes standards of required performance in preventing or minimizing water quality impacts from storm water runoff; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction, drainage, and erosion and sediment controls at construction sites" (Sec L-V 19.2A).

Section L-V 19.14: Establishes standards for erosion control, including the requirements for preparing erosion control plans.

3.6.1.3 Nevada City General Plan

The following goal and objective regarding geological resources are set forth in the Community Goals Element of the Nevada City General Plan:

- Ensure a high level of safety from earthquake, landslide, severe erosion, and other geotechnical hazards.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- Protect and improve quality of both surface water and groundwater.
 - Encourage programs to reduce erosion and sedimentation (e.g., control of hillside development).
- Preserve and enhance the important natural features, e.g., Sugarloaf, the ridges, the creeks, Gold Run, the hills within the city, and the steep terrain lying west of the city core.
 - Prevent soil erosion and hillside scarring through control of grading, restrictions on removal of vegetation, and limitation of development on steep slopes.

3.6.2 Environmental Setting

The proposed Project site is within Nevada County where the area can be categorized by gently rolling topography which forms the western foothills of the Sierra Nevada Mountains. The proposed Project site is located between 2,480 to 2,510 feet in elevation. The Project area is categorized within the western foothills geologic substructure and is generally comprised of granitic formations (Nevada County General Plan 2012). The regional geology of the Project area consists of Paleozoic and Mesozoic Rocks, consisting of metavolcanic rocks and Miocene-Pliocene intrusive rocks (Saucedo and Wagner 1992).

Soil surveys for western Nevada County were conducted by the United States Department of Agriculture Soil Conservation Service and near surface soils of the Project area were mapped in 2013 by the Natural Resources Conservation Service (NRCS). Soils in the Project vicinity include: Hoda Sandy Loam 9-15% slopes, Placer Diggings, and Cut/Fill. (NRCS 2013). The site mostly consists of Cut/Fill. The Fill source is reportedly overburden from an abandoned mine site and consists of reddish brown sandy clay loam with occasional gravel and cobbles. Placer Diggings are located along Little Deer Creek in the eastern and southeastern portions of the site and consist of placer mined areas along stream channels consisting of disturbed stream sediments including silt, sand, gravel, cobbles and boulders. Hoda Sandy Loam 9-15% slopes is located along the north bank of Little Deer Creek in the north portion of the site and around the western and southern perimeters of the Project area. Hoda series soils are characterized as deep to very deep, well drained soils formed in material weathered from granodiorite rock. Permeability is moderate and runoff is medium. (The Cooperative Soil Survey 2014).

Fault activity in the project vicinity is minimal, the Giant Gap Fault, with evidence of late Quaternary (between 12,000 and 700,000 years ago) movement, is located approximately 12 miles east of the Project area (USGS 2014). Several other late Quaternary and older faults occur within approximately 20 miles of the Project area including the Wolf Creek Fault Zone, Spenceville Fault, Deadman Fault, Bear Mountains Fault Zone, Maidu Fault, and several pre-Quaternary (greater than 1.6 million years ago) fault traces associated with these faults zones (USGS 2014). The Cleveland Hill Fault is the nearest principal fault with historic displacement, within the last 200 years, identified and mapped pursuant to the Alquist-Priolo Earthquake Zoning Act and is located approximately 32 miles northwest of the Project area.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

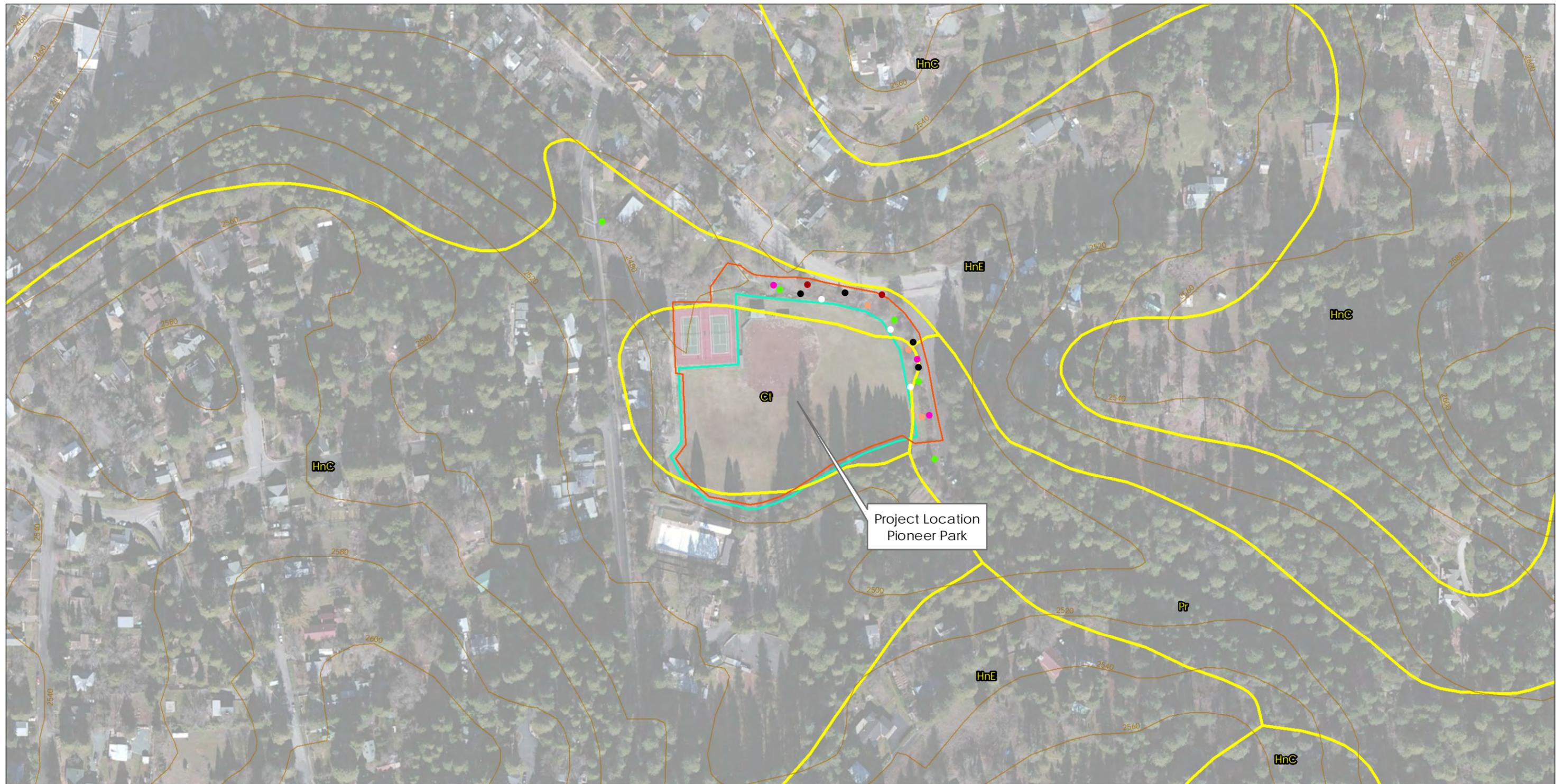
Environmental Impacts
November 7, 2016

Western Nevada County is characterized having a low level of earthquake hazard and is distant from known, active faults (CGS 2002). Moreover, the peak ground shaking velocity with a ten percent probability of being exceeded in the next 50 years for the Project area is 0.105 times the acceleration due to gravity (g) for firm rock and 0.153 g for alluvium (CGS 2016). These velocities correspond to between VII and VIII on the modified Mercalli scale and slight to moderate property damage, particularly to poorly constructed and/or designed construction.

The risk of landslides in Nevada County is generally low, and moderate at worst, due to the prevalence of igneous and metamorphic bedrock overlain by relatively shallow cohesive soils.

Areas susceptible to slides include steep topography, past hydraulic mining, and precipitation in large amounts (Nevada County Master Environmental Inventory 1995).





Legend

- Proposed Trail
- Elevation Contour
- Pioneer Park Field
- Soil Type**
- Ct - Cut and fill land
- HnC - Hoda sandy loam (9-15% slopes)
- HnE - Hoda sandy loam (15-50% slopes)
- Pr - Placer diggings

Trail Samples

- Trail Samples
- Sediment Samples
- Proposed Bank RL Samples
- Existing Bank RR Samples
- Concrete Samples
- Berm Samples

Figure No.
3.6.1

Title
Proposed Project
Geology and Soils

Client/Project
City of Nevada City
Little Deer Creek
Restoration and Flood Mitigation Project

0 100 200 Feet
1:2,377 (at original document size of 11x17)



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.6.3 Impact Analysis

Table 3.6-1 and the section below discuss the potential Project impacts relative to geology and soil-related issues.

Table 3.6-1 CEQA Checklist for Assessing Project-Specific Potential Impacts to Soils and the Potential for Geologic Impacts

VI. GEOLOGY AND SOILS: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Be located on strata or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- a) Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:**
- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

Finding: Less than significant

The proposed Project area is not located in a fault zone delineated on the California Geological Survey, Alquist-Priolo Earthquake Fault Zoning map (CGS 2010). The nearest active fault is the Cleveland Hills Fault located approximately 32 miles from the Project site. The Project does not include construction of structures for human occupancy and would not subject people or structures to adverse effects due to rupture of a known fault because as there are no known active faults in the Project area (USGS 2014). The Foothills Fault System north central reach section (Highway 49 Fault) is located approximately 12 miles south of the Project area; however, it is not an active fault with most recent movement occurring more than 130,000 years ago (USGS 2014). Therefore, impacts are considered less than significant.

- ii) Strong seismic ground shaking**

Finding: Less than significant

The proposed Project area is susceptible to low ground shaking (<0.2 g) associated with a major earthquake on nearby active faults, in which slight to moderate damage to ordinary structures and negligible damage to well designed and constructed structures is possible. The proposed Project does not involve construction of any structures or facilities for human habitation. Therefore, potential seismic impacts are considered less than significant.

- iii) Seismic related ground failure, including liquefaction.**

Finding: Less than significant

Liquefaction, a process in which the soil behaves like a liquid, can damage buildings, roads, and pipelines through uneven settlement of the soil and the soils loss of structural support capabilities (USGS 2008). In order for liquefaction to occur, there must be loose granular sediment that is saturated and there must be strong ground shaking (USGS 2008). The low ground shaking potential of the site and well drained cohesive soils over bedrock minimize the potential for liquefaction. Soils underlying the proposed infrastructure are cohesive and well drained and not likely susceptible to liquefaction. Furthermore, the site is not susceptible to strong ground shaking necessary for liquefaction to occur. Therefore, impacts are considered less than significant.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

iv) Landslides

Finding: Less than significant

The proposed Project area is located in Nevada County where soils are generally shallow over dense igneous and metamorphic bedrock, and the potential for landslides is low (Nevada County Master Environmental Inventory 1995). Therefore, impacts are considered less than significant.

b) *Would the Project result in substantial soil erosion or the loss of topsoil?*

Finding: Less than significant with mitigation incorporated

The proposed Project ground disturbance activities will include soil excavation and re-grading and upon Project completion will be restored to existing surface area conditions. During ground disturbance activities, Mitigation Measure GEO-1: Sedimentation and Erosion Control Measures will be implemented, to minimize the potential for erosion due to soil exposure. The contractor shall prepare a SWPPP that will be reviewed by the RWQCB. With the implementation of Mitigation Measure GEO-1, the proposed Project will not result in substantial soil erosion or loss of topsoil. Therefore, impacts are considered less than significant with mitigation incorporated.

c) *Would the Project be located on strata or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?*

Finding: Less than significant

The proposed Project is located on well-drained, cohesive soils underlain by dense bedrock. These soils, and the bedrock, are inherently stable, generally not susceptible to landslide or lateral spreading, and are not likely susceptible to subsidence or liquefaction. Therefore, impacts are considered less than significant.

d) *Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (UBC), creating substantial risks to life or property?*

Finding: Less than significant

The proposed Project involves soil excavation and re-grading and trail construction. No new structures are proposed. The proposed Project will be constructed in compliance with applicable County and State requirements. Therefore, this impact is considered less than significant.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- e) **Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**

Finding: No impact

The Project involves soil excavation and re-grading and trail construction. No wastewater will be produced as a part of the Project. Moreover, on-site wastewater treatment and disposal is not a necessary component of the Project. Therefore, no impact would occur.

3.6.4 Mitigation

Mitigation Measure GEO-1: Sedimentation and Erosion Control Measures

In compliance with the requirements of the State General Construction Activity Stormwater Permit, The City of Nevada City (City) shall obtain coverage under the current Construction General Permit (2009-0009-DWQ) and prepare a Stormwater Pollution Prevention Plan (SWPPP) that incorporates measures or comparable Best Management Practices which describes the site, erosion and sediment controls, means of waste disposal, implementation of approved local plans, control of post construction sediment and erosion control measures and maintenance responsibilities, and non-stormwater management controls. Nevada City shall require all construction contractors to retain a copy of the approved SWPPP at the project site and implement the SWPPP. Additionally, the SWPPP shall ensure that all stormwater discharges are in compliance with all current requirements of the Construction General Permit (2009-009-DWQ).

Mitigation Measure GEO-1 Implementation

Responsible Party: The City shall obtain coverage under the current Construction General Permit (2009-0009-DWQ) and prepare a Stormwater Pollution Prevention Plan (SWPPP). This mitigation measure will be referenced in the plans and specifications bid for the proposed project.

Timing: During construction activities and until the site is stabilized.

Monitoring and Reporting Program: The recording and evaluation of the SWPPP and erosion control practices will be conducted by Nevada City and the contractor and kept on file at the City Hall and at the Project site.

Standards of Success: Minimize on- and off-site erosion and prevent introduction of significant amounts of sediment into any stream or drainage. Ensure that all storm water discharges are in compliance with all current requirements of the Construction General Permit.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.7 GREENHOUSE GAS EMISSIONS

3.7.1 Regulatory Setting

3.7.1.1 Federal Regulations

3.7.1.1.1 U.S. Environmental Protection Agency (EPA)

Greenhouse Gas Endangerment. In *Massachusetts v. EPA* (Supreme Court Case 05-1120), decided on April 2, 2007, the Supreme Court found that four GHGs, including CO₂, are air pollutants subject to regulation under Section 202(a)(1) of the Clean Air Act. The Court held that the Administrator must determine whether emissions of GHGs from new motor vehicles cause or contribute to air pollution, which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. On December 7, 2009, the EPA Administrator signed two distinct findings regarding GHGs under section 202(a) of the Clean Air Act:

- **Endangerment Finding:** The Administrator finds that the current and projected concentrations of the six key well-mixed greenhouse gases—carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride—in the atmosphere threaten the public health and welfare of current and future generations.
- **Cause or Contribute Finding:** The Administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution, which threatens public health and welfare.

These findings do not impose requirements on industry or other entities. However, this was a prerequisite for implementing GHG emissions standards for vehicles, as discussed in the section “Clean Vehicles” below. After a lengthy legal challenge, the U.S. Supreme Court declined to review an Appeals Court ruling that upheld the EPA Administrator findings (EPA 2009).

3.7.1.2 State Regulations

There are a variety of statewide rules and regulations which have been implemented or are in development in California which mandates the quantification or reduction of GHGs. Under CEQA, an analysis and mitigation of emissions of GHGs and climate change in relation to a proposed project is required where it has been determined that a project will result in a significant addition of GHGs. Certain Air Pollution Control Districts (APCDs) have proposed their own levels of significance. The NSAQMD, which has regulatory authority over the air emissions from this Project, has not established a significance threshold.

AB 32. The California State Legislature enacted AB 32, the California Global Warming Solutions Act of 2006. AB 32 requires that GHGs emitted in California be reduced to 1990 levels by the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

year 2020. "Greenhouse gases" as defined under AB 32 include carbon dioxide, methane, NO_x, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Since AB 32 was enacted, a seventh chemical, nitrogen trifluoride, has also been added to the list of GHGs. The ARB is the state agency charged with monitoring and regulating sources of GHGs. AB 32 states the following:

Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

The ARB approved the 1990 GHG emissions level of 427 MMTCO₂e on December 6, 2007 (CARB 2016). Therefore, emissions generated in California in 2020 are required to be equal to or less than 427 MMTCO₂e. Emissions in 2020 in a "business as usual" scenario were estimated to be 596 MMTCO₂e, which do not account for reductions from AB 32 regulations (ARB 2016). At that level, a 28 percent reduction was required to achieve the 427 million MTCO₂e 1990 inventory. In October 2010, ARB prepared an updated 2020 forecast to account for the recession and slower forecasted growth. The forecasted inventory without the benefits of adopted regulation is now estimated at 545 million MTCO₂e. Therefore, under the updated forecast, a 21.7 percent reduction from business as usual (BAU) is required to achieve 1990 levels (CARB 2015).

Progress in Achieving AB 32 Targets and Remaining Reductions Required

The State has made steady progress in implementing AB 32 and achieving targets included in Executive Order S-3-05. The ARB also prepared updated emission inventories for 2000 through 2011 to show progress achieved to date (ARB 2013). Executive Order S-3-05 includes a target for 2010 of reducing GHG emissions to 2000 levels. As shown below, the 2010 emission inventory achieved this target. Also shown are the average reductions needed from all statewide sources (including all existing sources) to reduce GHG emissions back to 1990 levels.

- 1990: 427 million MTCO₂e (AB 32 2020 Target)
- 2000: 463 million MTCO₂e (an average 8-percent reduction needed to achieve 1990 base)
- 2010: 450 million MTCO₂e (an average 5-percent reduction needed to achieve 1990 base)
- 2020: 545 million MTCO₂e BAU (an average 21.7-percent reduction from BAU needed to achieve 1990 base)



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

ARB Scoping Plan. The ARB's Climate Change Scoping Plan (Scoping Plan) contains measures designed to reduce the State's emissions to 1990 levels by the year 2020 to comply with AB 32 (ARB 2016). The Scoping Plan identifies recommended measures for multiple GHG emission sectors and the associated emission reductions needed to achieve the year 2020 emissions target—each sector has a different emission reduction target. Most of the measures target the transportation and electricity sectors. As stated in the Scoping Plan, the key elements of the strategy for achieving the 2020 GHG target include:

- Expanding and strengthening existing energy efficiency programs as well as building and appliance standards;
- Achieving a statewide renewables energy mix of 33 percent;
- Developing a California cap-and-trade program that links with other Western Climate Initiative partner programs to create a regional market system;
- Establishing targets for transportation-related GHG emissions for regions throughout California and pursuing policies and incentives to achieve those targets;
- Adopting and implementing measures pursuant to existing State laws and policies, including California's clean car standards, goods movement measures, and the Low Carbon Fuel Standard; and
- Creating targeted fees, including a public goods charge on water use, fees on high global warming potential gases, and a fee to fund the administrative costs of the State's long-term commitment to AB 32 implementation.

In addition, the Scoping Plan differentiates between “capped” and “uncapped” strategies. Capped strategies are subject to the proposed cap-and-trade program. The Scoping Plan states that the inclusion of these emissions within the cap-and-trade program will help ensure that the year 2020 emission targets are met despite some degree of uncertainty in the emission reduction estimates for any individual measure. Implementation of the capped strategies is calculated to achieve a sufficient amount of reductions by 2020 to achieve the emission target contained in AB 32. Uncapped strategies that will not be subject to the cap-and-trade emissions caps and requirements are provided as a margin of safety by accounting for additional GHG emission reductions.

The ARB approved the First Update to the Scoping Plan (Update) on May 22, 2014. The Update identifies the next steps for California's climate change strategy. The Update shows how California continues on its path to meet the near-term 2020 GHG limit, but also sets a path toward long-term, deep GHG emission reductions. The report establishes a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050. The Update identifies progress made to meet the near-term objectives of AB 32 and defines California's climate change priorities and activities Climate for the next several years.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

The Update does not set new targets for the State, but describes a path that would achieve the long term 2050 goal of Executive Order S-05-03 for emissions to decline to 80 percent below 1990 levels by 2050 (ARB 2016).

The ARB has no legislative mandate to set a target beyond the 2020 target from AB 32 or to adopt additional regulations to achieve a post-2020 target. The Update estimates that reductions averaging 5.2 percent per year would be required after 2020 to achieve the 2050 goal. With no estimate of future reduction commitments from the State, identifying a feasible strategy including plans and measures to be adopted by local agencies is not currently possible.

Executive Orders Related to GHG Emissions

California's Executive Branch has taken several actions to reduce GHGs through the use of Executive Orders. Although not regulatory, they set the tone for the state and guide the actions of state agencies.

Executive Order S-13-08. Executive Order S-13-08 states that "climate change in California during the next century is expected to shift precipitation patterns, accelerate sea level rise and increase temperatures, thereby posing a serious threat to California's economy, to the health and welfare of its population and to its natural resources." Pursuant to the requirements in the order, the 2009 California Climate Adaptation Strategy (California Natural Resources Agency 2009) was adopted, which is the ". . . first statewide, multi-sector, region-specific, and information-based climate change adaptation strategy in the United States." Objectives include analyzing risks of climate change in California, identifying and exploring strategies to adapt to climate change, and specifying a direction for future research.

Executive Order S-3-05. Former California Governor Arnold Schwarzenegger announced on June 1, 2005, through Executive Order S 3-05, the following reduction targets for GHG emissions:

- By 2010, reduce greenhouse gas emissions to 2000 levels.
- By 2020, reduce greenhouse gas emissions to 1990 levels.
- By 2050, reduce greenhouse gas emissions to 80 percent below 1990 levels.

The 2050 reduction goal represents what some scientists believe is necessary to reach levels that will stabilize the climate. The 2020 goal was established to be a mid-term target. Because this is an executive order, the goals are not legally enforceable for local governments or the private sector.

Executive Order B-30-15s. Governor Jerry Brown signed Executive Order B-30-15s on April 29, 2015. The following are major provisions of the Executive Order:

1. A new interim statewide greenhouse gas emission reduction target to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030 is established in order



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

to ensure California meets its target of reducing greenhouse gas emissions to 80 percent below 1990 levels by 2050.

2. All state agencies with jurisdiction over sources of greenhouse gas emissions shall implement measures, pursuant to statutory authority, to achieve reductions of greenhouse gas emissions to meet the 2030 and 2050 greenhouse gas emissions reductions targets.
3. The California Air Resources Board shall update the Climate Change Scoping Plan to express the 2030 target in terms of million metric tons of carbon dioxide equivalent.

The executive order does not apply directly to cities and counties, but will lead to the preparation of a new ARB Scoping Plan and the development of regulations to achieve post-2020 reduction targets.

3.7.1.3 Local Regulations

3.7.1.3.1 Northern Sierra Air Quality Management District

The Project is under the jurisdiction of the Northern Sierra Air Quality Management District (NSAQMD), which regulates air quality according to the standards established in the Clean Air Act. The NSAQMD has not yet established significance thresholds for GHG emissions, but states that, pursuant to provisions and precedents stemming from AB32, greenhouse gas (GHG) emissions should be quantified for decision-makers and the public to consider (NSAQMD 2009).

3.7.1.3.2 Nevada County General Plan

As part of the General Plan, Nevada County (1996) has adopted Goal EP 4.3 intended to improve greenhouse gas emissions.

Goal EP 4.3 To the extent feasible, encourage the reduction of Greenhouse Gas emissions during the design phase of construction projects (Nevada County 1996).

3.7.1.3.3 Nevada City General Plan

The Nevada City General Plan contains no elements specific to greenhouse gases.

3.7.2 Environmental Setting

In accordance with determinations made by the State of California, Greenhouse gases (GHGs) and climate change are cumulative global issues. The California Air Resources Board (CARB) and the U.S. Environmental Protection Agency (EPA) regulate GHG emissions within the State of California and the United States, respectively. While the CARB has the primary regulatory responsibility within California for GHG emissions, local agencies can also adopt policies for GHG emission reduction.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Greenhouse Gases (GHGs)

Many chemical compounds found in the Earth's atmosphere act as GHGs, which allow sunlight to enter the atmosphere freely. When sunlight strikes the Earth's surface, some of it is reflected back towards space as infrared radiation (heat). GHGs absorb this infrared radiation and trap the heat in the atmosphere. Over time, the amount of energy sent from the sun to the Earth's surface should be about the same as the amount of energy radiated back into space, leaving the temperature of the Earth's surface roughly constant. Many gases exhibit "greenhouse" properties. Some of them occur in nature (water vapor, carbon dioxide, methane, and nitrous oxide), while others are exclusively anthropogenic (like gases used for aerosols).

The principal climate change gases resulting from human activity that enter and accumulate in the atmosphere are listed below:

- Carbon Dioxide (CO₂): CO₂ enters the atmosphere through the burning of fossil fuels (oil, natural gas, and coal), solid waste, trees and wood products, and chemical reactions (e.g., the manufacturing of cement). CO₂ is also removed from the atmosphere (or sequestered) when it is absorbed by plants as part of the biological carbon cycle.
- Methane (CH₄): CH₄ is emitted during the production and transport of coal, natural gas, and oil. CH₄ emissions also result from livestock and agricultural practices and the decay of organic waste in municipal solid waste landfills and waste water facilities.
- Nitrous Oxide (N₂O): N₂O is emitted during agricultural and industrial activities as well as during combustion of fossil fuels and solid waste.
- Fluorinated Gases: HFCs, PFCs, and SF₆ are synthetic, powerful climate-change gases that are emitted from a variety of industrial processes. Fluorinated gases are often used as substitutes for ozone-depleting substances (i.e., chlorofluorocarbons, hydrochloro fluorocarbons, and halons). These gases are typically emitted in smaller quantities, but because they are potent climate-change gases, they are sometimes referred to as high Global Warming Potential (GWP) gases.

3.7.3 Impact Analysis

Greenhouse gas emissions associated with the proposed Project were estimated using CO_{2e} (Carbon Dioxide Equivalent) emissions as a proxy for all greenhouse gas emissions. In order to obtain the CO_{2e}, an individual GHG is multiplied by its GWP. The GWP designates on a pound for pound basis the potency of the GHG compared to CO₂ (CalEEMod, Appendix A: Calculation Details for CalEEMod, pg. 3).

The primary sources of proposed Project-related GHG emissions are anticipated to be combustion of fossil fuels from the operation of internal combustion engines used during Project construction (portable equipment, off-road equipment, dump trucks, and other vehicles). It is



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

anticipated that approximately 150 truck trips would be needed to haul contaminated soil and concrete and approximately 115 truck trips to import fill for the creek restoration, field grading, and trail improvements. CO_{2e} emissions during proposed Project operation are expected to be low and will primarily be associated with vehicles and equipment for park maintenance. Operational emissions will be similar to existing site conditions and will not result in a substantial amount of GHG emissions.

As previously stated, the NSAQMD has not set up GHG emissions thresholds therefore this impact analysis uses current significance thresholds developed by the Sacramento Metro Air Quality Management District (SMAQMD) as a comparative. The SMAQMD has established GHG emission thresholds for construction phase, operational phase, and stationary source projects. Although these thresholds are not binding on the NSAQMD, they are useful for comparative purposes. SMAQMD emissions significance thresholds consider any construction phase of a project emitting over 1,100 metric tons/year of CO_{2e} would be considered significant (SMAQMD 2014).

Table 3.7-2 CEQA Checklist for Assessing Project-Specific Potential Greenhouse Gas Emissions Impacts

VII. GREENHOUSE GAS EMISSIONS: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) *Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

Finding: Less than significant

The NSAQMD has not established GHG emissions thresholds; therefore, estimated Project construction emissions were compared to the SMAQMD significance thresholds. Predicted proposed Project emissions are well below SMAQMD significance thresholds for CO_{2e} emissions levels. Table 3.7-2 indicates the proposed Project quantitative impacts relative to greenhouse gas emissions.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.7-3 Little Deer Creek and Pioneer Park Restoration Project CalEEMod Predicted CO₂e Emissions Estimates

2017 Construction Source CO ₂ e Emission Estimates (metric tons/year unmitigated)	77.5
2018 Construction Source CO ₂ e Emission Estimates (metric tons/year unmitigated)	60.4
Total Construction Source CO ₂ e Emission Estimates (metric tons/year unmitigated)	137.9
SMAQMD CO₂e Construction Phase Emissions Significance Thresholds (metric tons/year)	1,100

Emissions of GHGs during the operations of the proposed Project would be similar to existing conditions, which include emissions from park maintenance and visitor vehicle trips. The proposed Project would not add additional maintenance activity or vehicle trips. The proposed Project will not generate GHG emissions levels that either directly or indirectly have significant impacts on the environment because of low Project CO₂e emission estimates. Therefore, potential greenhouse gas emissions impacts are considered less than significant.

b) Would the Project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Finding: Less than significant

The proposed Project will not generate additional greenhouse gas emissions that would conflict with an applicable plan, policy, or regulations adopted for the purpose of reducing the emissions of greenhouse gases. Total CO₂e levels predicted to be emitted from construction totaled 137.9 metric tons per year. This CO₂e estimate is far lower than SMAQMD significance thresholds of 1,100 metric tons of CO₂e per year. Therefore, potential greenhouse gas emissions impacts are considered to be less than significant.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.8 HAZARDS AND HAZARDOUS MATERIALS

3.8.1 Regulatory Setting

A hazardous material is defined by the California Environmental Protection Agency (CalEPA), Department of Toxic Substances Control (DTSC), as a material that poses a significant present or potential hazard to human health and safety or the environment if released because of its quantity, concentration, or physical or chemical characteristics (26 California Code of Regulations 25501). For the purposes of this analysis, hazardous materials include raw materials and material remaining on-site as a result of past activities including historic placement of fill with elevated arsenic concentrations in the proposed Project area.

Applicable regulations and policies considered relevant to the proposed Project are summarized below.

3.8.1.1 Federal Regulations

The principal federal regulatory agency responsible for the safe use and handling of hazardous materials is the EPA. Two key federal regulations pertaining to hazardous wastes are described below. Other applicable federal regulations are contained primarily in Titles 29, 40, and 49 of the Code of Federal Regulations.

3.8.1.1.1 Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) enables the EPA to administer a regulatory program that extends from the manufacture of hazardous materials to their disposal, thus regulating the generation, transport, treatment, storage, and disposal of hazardous waste at all facilities and sites in the nation.

3.8.1.1.2 Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund, was passed to facilitate the cleanup of the nation's toxic waste sites. In 1986, CERCLA was amended through the Superfund Amendment and Reauthorization Act Title III (community right-to-know laws). Title III states that past and present owners of land contaminated with hazardous substances can be held liable for the entire cost of the clean-up, even if the material was dumped illegally when the property was under different ownership.

3.8.1.2 State Regulations

California regulations are equal to or more stringent than federal regulations. EPA has granted the State of California primary oversight responsibility to administer and enforce hazardous waste management to ensure that hazardous wastes are handled, stored, and disposed of properly to reduce risks to human health and the environment. Several key laws pertaining to hazardous wastes are discussed below.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.8.1.2.1 Hazardous Materials Release Response Plans and Inventory Act of 1985

The Hazardous Materials Release Response Plans and Inventory Act, also known as the BusinessPlan Act, requires businesses using hazardous materials to prepare a report that describes their facilities, inventories, emergency response plans and training programs. Hazardous materials are defined as raw or unused materials that are part of a process or manufacturing step. They are not considered to be hazardous waste. Health concerns pertaining to the release of hazardous materials, however, are similar to those relating to hazardous waste.

3.8.1.2.2 Hazardous Waste Control Act

The Hazardous Waste Control Act created the state hazardous waste management program, which is similar to, but more stringent than, the federal Resource Conservation and Recovery Act program. The act is implemented by regulations contained in Title 26 of the California Code of Regulations, which describes the following required aspects for the proper management of hazardous waste:

- Identification and classification;
- Generation and transport;
- Design and permitting of recycling, treatment, storage, and disposal facilities;
- Treatment standards;
- Operation of facilities and staff training; and
- Closure of facilities and liability requirements.

These regulations list more than 800 materials that may be hazardous and establish criteria for identifying, packaging, and disposing of them. Under the Hazardous Waste Control Act and Title 26, the generator of hazardous waste must complete a manifest that accompanies the waste from the generator to the transporter to the ultimate disposal location.

3.8.1.2.3 Emergency Services Act

Under the Emergency Services Act, the state developed an emergency response plan to coordinate emergency services provided by federal, state, and local agencies. Rapid response to incidents involving hazardous materials or hazardous waste is an important part of the plan, which is administered by the California Office of Emergency Services. The office coordinates the responses of other agencies, including the EPA, the California Highway Patrol, Regional Water Quality Control Boards, air quality management districts, and county disaster response offices.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.8.1.3 Other Laws, Regulations, and Programs

Various other state regulations have been enacted that affect hazardous waste management, including:

- Safe Drinking Water and Toxic enforcement Act of 1986 (Proposition 65), which requires labeling of substance known or suspected by the state to cause cancer.
- California Government Code Section 65962.5, which requires the Office of Permit Assistance to compile a list of possible contaminate sites in the state. State and federal regulations also require that hazardous materials sites be identified and listed in public records. These lists are:
 - Comprehensive Environmental Response, Compensation, and Liability Information System;
 - National Priorities List for Uncontrolled Hazardous Waste Sites;
 - Resource Conservation and Recovery Act;
 - California Superfund List of Active Annual Workplan Sites; and
 - Lists of state-registered underground and leaking underground storage tanks.

3.8.2 Environmental Setting

The Project site is located in the eastern portion the City of Nevada City, and surrounded by residential properties, and wooded and riparian open space. The Project site consists of the lower playing field of Pioneer Park, the riparian area of Little Deer Creek adjacent to the lower field and a trail alignment around the perimeter of the field.

Based on a review of Project site history, prior to construction of Pioneer Park in the late 1940s, Little Deer Creek flowed through the middle of what is now the lower playing field. When Pioneer Park was developed, imported fill soil was used to fill the Little Deer Creek stream channel and grade the lower field. The stream was relocated around the eastern and northern perimeter of the field and confined within a concrete lined channel, soil berm was also constructed along the eastern edge of the field to control flooding. The borrow source for the fill material was reportedly a site approximately one mile southeast of the park. Soil used for fill consisted of reddish brown clayey loam soil which may have been overburden from an abandoned mine. Elevated arsenic is a common constituent of mine waste in the local area.

Previous studies completed between 2007-2010, have identified elevated arsenic concentrations in the fill soil in the near surface soil throughout the lower playing field as well as the stream bank and stream sediment in Little Deer Creek, which will be disturbed during Project construction. Additional soil sampling and analysis conducted in 2016 and documented in the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Site Characterization Report (Appendix C) indicated arsenic is the primary constituent of concern in site soil. No other title 22 metals exceeded applicable regulatory standards. Arsenic concentrations in the Project area range from 4.7 to 106 milligrams per kilogram (mg/kg), with a mean concentration of 54.9 mg/kg. Total and soluble arsenic analysis indicated that fill soil at the site does not exceed Total Threshold Limit Concentrations (TTL) of 500 mg/kg or the Soluble Threshold Limit Concentration (STLC) and thus the soil would not be considered Hazardous Waste under Title 26 of the California Code of Regulations. However, the soil is considered a Hazardous Substance and will require special handling and off-site disposal.

Hazards and hazardous materials at the Project site are limited to contaminated fill soils consisting of mine waste impacted by arsenic. Refer to the Project Description section of this Initial Study, which discuss the Site contamination.

3.8.3 Impact Analysis

All hazardous materials are currently regulated and controlled by CalEPA in a manner that minimizes risks of spills or accidents. Any hazardous materials used in the construction, start-up, or operations of the proposed Project, such as diesel for equipment, will be handled according to current practices. The potential for construction and operation related impacts from hazardous materials are qualified in Table 3.8-1 and discussed below.

The scope of the project includes excavation and off-site disposal of arsenic impacted fill soil during channel widening and restoration of Little Deer Creek and during field regrading activities and possibly to a limited extent during trail construction. Refer to the Project Description, Section 1 of this Initial Study for a discussion of proposed Project activities.

Table 3.8-1 CEQA Checklist for Assessing Project-Specific Potential Impacts Relative to Hazards and Hazardous Materials

VIII. HAZARDS AND HAZARDOUS MATERIALS: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

VIII. HAZARDS AND HAZARDOUS MATERIALS: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the Project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the Project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a) Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Finding: Less than significant with mitigation incorporated

Temporary construction activities associated with the proposed Project will involve the transport and use of limited quantities of miscellaneous hazardous substances including gasoline, diesel fuel, hydraulic fluid, solvents, and oils. These chemicals would be brought to the proposed Project site, as well as transported along the roadways. Federal and state laws regulate the handling, storage, and transport of these and other hazardous materials, as well as the mechanisms to respond and clean up any spills along local and regional roadways. Chemicals present on-site or used for the proposed Project will be handled by the contractor in accordance with applicable federal, state, and local regulations for hazardous substances. Mitigation Measure HAZ-1: Avoid/Minimize Potential Impacts from Construction Material Release shall be implemented to mitigate potential impacts related to hazardous materials transport, use, or disposal.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

As discussed in the Environmental Setting section above, fill soils contaminated with arsenic were used to regrade the lower field and relocate Little Deer Creek. Soil sampling conducted in 2016 show arsenic concentrations in the Project area ranging from 4.7 to 106 milligrams per kilogram (mg/kg), with a mean concentration of 54.9 mg/kg. Although soils at the site do not exceed Total Threshold Limit Concentrations (TTL) of 500 mg/kg or the Soluble Threshold Limit Concentration (STLC), excavation of contaminated soils could pose a potential risk to workers on-site or receptors located near the site through inhalation of airborne dust. The nearest residences are located approximately 50 feet from the Site, along the western edge of the lower field. Mitigation Measure AIR-1 would be implemented, which includes dust control measures to minimize fugitive dust and related contaminant dispersal. In addition, a transportation plan will be developed for the Project and will serve to specify appropriate procedures, methods, and equipment for controlling emissions during loading, transport, and unloading of excavated soils. The excavated soils to be disposed of off-site will be properly transported in securely tarped or sealed containers, so as not to cause a hazard to the public or environment throughout transport.

With the implementation of Mitigation Measure HAZ-1 and Mitigation Measure AIR-1, potential impacts are considered less than significant with mitigation incorporated.

b) *Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

Finding: Less than significant with mitigation incorporated

Temporary construction activities associated with the proposed Project will involve the transport and use of hazardous materials including gasoline, diesel fuel, hydraulic fluid, and oils.

Chemicals present on site or used for the Project will be handled by the contractor in accordance with applicable federal, state, and local regulations for hazardous substances, and any spills will be immediately cleaned up and disposed of in the appropriate manner. In addition, the proposed Project site is not listed by any federal, state or local database that identifies known hazardous materials sites (DTSC 2016, EPA 2010). Mitigation Measure HAZ-1: Avoid/Minimize Potential Impacts from Construction Material Release shall be implemented.

The risk of upset associated with the proposed Project is low because the contaminated soil material will be transported off-site by licensed and permitted haulers ([Health & Saf. Code, §25163], [Health & Saf. Code, §25160(d)], [Cal. Code Regs., tit. 22, §66263.17]). Licensed haulers are trained to understand Department of Transportation regulations and safety protocols when hauling hazardous materials. The driver has been instructed on spill control, containment and failure procedures, who to contact in case of emergency while transporting the materials (e.g. California Highway Patrol), and how the truck is to be labeled to ensure the consistent communication of information to first responders. The remediation activities include hazards that may be caused by human error or machinery failure. Should an accidental spill occur on the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

highway, Department of Transportation regulations for spills will be observed. Potential receptors include anyone who comes in direct contact with the waste by way of direct skin contact, inhalation, or by ingestion. If a spill occurs, the driver of the truck will notify the local authorities for implementation of cleanup activities. Since the trucks will be appropriately labeled, any waste spill clean-up workers will be able to adequately don the appropriate protective gear to deal with this waste.

In the event of an emergency during transport to the treatment facility, the driver of the hauling truck will use the following procedures:

- Park the vehicle in the most secure area available, away from homes, traffic, waterways, and businesses
- Stay with the vehicle until appropriate support has arrived; move a safe distance away from the vehicle or spill material if danger exists
- Notify the appropriate emergency contacts

Impacted soil spilled off-site will be properly removed and cleaned up pursuant to directions of local authorities (e.g., California Highway Patrol, city, county, etc.).

Risks associated with the dust and particulates at the excavation zone will be minimized through securing the site and excavation areas to prevent unauthorized access to work areas as well as, the implementation of Mitigation Measure AIR-1, which includes the use of dust suppression activities (such as water). The on-site health and safety officer will provide visual monitoring of dust emissions. If airborne dust conditions exceed the health standard (significant visual dust) in the worker breathing zone or at the site boundary, additional dust control measures will be implemented or work will be stopped until conditions improve.

Therefore, impacts are considered less than significant with mitigation incorporated.

c) *Would the Project Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?*

Finding: No impact

The proposed Project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. The closest schools to the proposed Project site are Seven Hill Middle School and Deer Creek Elementary School, located approximately 1.0 mile and 1.1 miles away from the Project site.

Arsenic is not considered an acutely hazardous substance, however long-term exposure to small amounts of arsenic over time can result in elevated cancer risks. Although school-aged children



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

use the park, the project construction area will be fenced and there will be no public access through the duration of the project. Additionally, dust suppression measures will be implemented to minimize potential exposure.

Construction traffic associated with the remediation will not pass any schools. Trucks leaving the site will leave the staging area in the western portion of the site, turn right on Nimrod Street, left on Park Avenue, left on Boulder Street, continue straight on Broad Street and proceed left onto State Highway 20/49 south towards Grass Valley. Therefore, no impacts would occur.

- d) *Would the Project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?***

Finding: Less than significant

A review of the EPA hazardous materials sites database did not identify the Project site as a known hazardous materials sites (DTSC 2016, EPA 2010). The proposed project is not identified on any active databases pursuant to Government Code Section 65962.5. Excavation of soils with elevated constituents of concern will have a positive long-term effect. It will reduce potential human exposure to Project site contaminants and future impacts to surface water from erosion of arsenic impacted soil or mine waste. Project activities will be performed in accordance with hazardous waste standards, laws, and regulations. Therefore, impacts would be considered less than significant.

- e) *For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard for people residing or working in the Project area?***

Finding: No Impact

The proposed Project site is not located within an airport land use plan area (Nevada County Transportation Commission 2007). The proposed Project is located approximately 2.4 miles from the Nevada County Airpark. The Airpark is classified as B-1, meaning it generally accommodates aircraft less than 12,500 pounds and 49 foot wingspan (City of Grass Valley 1998). Because the airport is located over two miles from the proposed Project, it would not result in a safety hazard for people residing or working in the Project area. Therefore no impacts would occur.

- f) *For a Project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the Project area?***

Finding: No Impact

The Project site is not located within the vicinity of a private air strip and thus no impacts would occur.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

See response to checklist item (e).

g) *Would the Project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

Finding: Less than significant

The City of Nevada City does not have an adopted specified emergency response plan or emergency evacuation plan. The project implementation will not impair or interfere with the General Plan of the City of Nevada City. According to the City Engineer, the project is not likely to interfere with emergency response or emergency evacuation activities. This project has adequate access for emergency response or evacuation. Nevada City Police and Fire Department will be informed of the Project and consulted regarding emergency routes prior and during the implementation.

Access for all fire and police emergency response vehicles would be maintained on Park Avenue, Nimrod Street, Boulder Street and Broad Street throughout the construction period. Therefore, potential impacts to emergency, fire, and police response is less than significant.

h) *Would the Project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?*

Finding: Less than significant with mitigation incorporated

The proposed Project site is in an open field and riparian setting surrounded by vegetation, trees, and shrubs. The Project is located within a very high risk fire zone (Cal Fire 2012) and the risk of fire is a concern especially during the typically hot, dry summer season. Equipment used during trenching, grading and other construction activities may generate sparks that could ignite dry vegetation on or adjacent to the construction area and cause wild land fires in the area. Mitigation Measure HAZ-2 would be implemented, which includes fire prevention and control measures. Additionally, a water truck will be located on-site for dust control measure but would also be used in the event that a fire broke out during construction activities. The proposed Project site is in the jurisdiction of the Nevada City Fire District. The closest active station to the project is the Nevada City Fire Station located at 201 Providence Mine Rd, Nevada City, approximately 1.5 miles from the proposed Project site. Potential to expose people or structure to loss, injury or death involving wildland fires is less than significant with mitigation incorporated.

3.8.4 Mitigation

Mitigation Measure HAZ-1: Avoid/Minimize Potential Impacts from Construction Material Release.

Prior to construction, the contractor shall develop a Spill Prevention and Contingency Plan for the Project. Containment and cleanup equipment (e.g., absorbent pads, mats, socks, granules,



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

drip pans, shovels, and lined clean drums) will be at the staging areas and construction site for use, as needed.

Construction equipment will be maintained and kept in good operating condition to reduce the likelihood of line breaks or leakage. No refueling or servicing will be done without absorbent material (e.g. absorbent pads, mats, socks, pillows, and granules) or drip pans underneath to contain spilled material. If these activities result in an accumulation of materials on the soil, the soil will be removed and properly disposed of as hazardous waste.

If a spill is detected, construction activity will cease immediately and the procedures described in the Spill Prevention and Contingency Plan will be immediately enacted to safely contain and remove spilled materials. Spill areas will be restored to pre-spill conditions, as practicable. Spills will be documented and reported to the City of Nevada City and appropriate resource agency personnel.

In the event of an emergency during transport to the treatment facility, the driver of the hauling truck will use the following procedures:

- Park the vehicle in the most secure area available, away from homes, traffic, waterways, and businesses
- Stay with the vehicle until appropriate support has arrived; move a safe distance away from the vehicle or spill material if danger exists
- Notify the appropriate emergency contacts

Mitigation Measure HAZ-1 Implementation

Responsible Party: the City of Nevada City will require the construction contractor develop the Spill Prevention and Contingency Plan for all activities at the Project site. This mitigation measure will be referenced in the plans and specifications bid for the proposed project.

Timing: The Plan will be implemented prior to and during all phases of construction.

Monitoring and Reporting: Evaluation the Spill Prevention and Contingency Plan will be conducted by the City of Nevada City. Reports of spills will be documented and kept on file at the Nevada City, City Hall.

Standard of Success: Prevention of construction material spills in drainages near the Project area.

Mitigation Measure HAZ-2: Fire Suppression and Control:

The city of Nevada City will require the selected construction contractor to coordinate with the local fire chief to ensure fire control to reduce the risk of fires during the proposed Project. The



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

fire prevention and control measures will include requirements for onsite extinguishers; roles and responsibilities of Nevada City and the contractor; fire suppression equipment and critical fire prevention and suppression items.

Mitigation Measure HAZ-2 Implementation

Responsible Party: The City of Nevada City will require the construction contractor coordinate with the local fire chief.

Timing: The fire prevention and control measures shall be implemented prior to and during all phases of construction.

Monitoring and Reporting: Evaluation of the fire prevention and control measures will be conducted by the City of Nevada City. Reports of Project-related fire will be documented and kept on file at the Nevada City, City Hall.

Standard of Success: Prevention of fires during construction within the Project area.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.9 HYDROLOGY AND WATER QUALITY

The following hydrology and water quality section evaluates the proposed Project's impacts to hydrology and water quality. The section begins with the regulatory setting discussing the hydrology and water quality regulations applicable to the Project. The environmental setting describes the specific hydrology and water quality information in and around the Project area. The third section evaluates the potential impacts of the proposed Project looking to both the regulatory and environmental setting to assess the potential for the Project to cause a significant impact to hydrology and water quality.

3.9.1 Regulatory Setting

3.9.1.1 Federal Regulations

3.9.1.1.1 Clean Water Act

The Clean Water Act (CWA) (33 USC § 1251-1376), as amended by the Water Quality Act of 1987, is the major Federal legislation governing water quality. The objective of the CWA is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Sections of the Act relevant to this Project are as follows:

- Sections 303 and 304 provide for water quality standards, criteria, and guidelines.
- Section 401 (Water Quality Certification) requires an applicant for any Federal permit that proposes an activity, which may result in a discharge to waters of the United States to obtain certification from the state that the discharge will comply with other provisions of the Act.
- Section 402 establishes the National Pollution Discharge Elimination System (NPDES), a permitting system for the discharge of any pollutant (except for dredged or fill material) into waters of the United States. This permit program is administered by the State Water Resources Control Board (SWRCB) and is discussed in detail below.
- Section 404 establishes a permit program for the discharge of dredged or fill material into waters of the United States. This permit program is jointly administered by the United States Army Corps of Engineers (Corps) and the United States Environmental Protection Agency (EPA).

3.9.1.1.2 Federal Anti-Degradation Policy

The Federal Anti-degradation Policy is part of the CWA (Section 303(d)) and is designed to protect water quality and water resources. The policy directs states to adopt a statewide policy that includes the following primary provisions: (1) existing in-stream uses and the water quality necessary to protect those uses shall be maintained and protected; (2) where existing water quality is better than necessary to support fishing and swimming conditions, that quality shall be



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

maintained and protected unless the state finds that allowing lower water quality is necessary for important local economic or social development; and (3) where high-quality waters constitute an outstanding national resource, such as waters of national and state parks, wildlife refuges, and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

3.9.1.1.3 National Flood Insurance Policy Act

The Federal Emergency Management Agency (FEMA) is responsible for managing the National Flood Insurance Program (NFIP), which makes federally backed flood insurance available for communities that agree to adopt and enforce floodplain management ordinances to reduce future flood damage.

The NFIP, established in 1968 under the National Flood Insurance Act, requires that participating communities adopt certain minimum floodplain management standards, including restrictions on new development in designated floodways, a requirement that new structures in the 100-year flood zone be elevated to or above the 100-year flood level known as base flood elevation. To facilitate identifying areas with flood potential, FEMA has developed Flood Insurance Rate Maps (FIRMs) that can be used for planning purposes, including floodplain management, flood insurance, and enforcement of mandatory flood insurance purchase requirements.

3.9.1.2 State Regulations

3.9.1.2.1 Porter Cologne Water Quality Control Act

The State of California established the State Water Resources Control Board (SWRCB), which oversees the nine RWQCBs, through the Porter-Cologne Water Quality Control Act (Porter-Cologne). Through the enforcement of the Porter Cologne Act, the SWRCB determines the beneficial uses of the waters (surface and groundwater) of the State, establishes narrative and/or numerical water quality standards, and initiates policies relating to water quality. The SWRCB and, more specifically, the RWQCB, is authorized to prescribe Waste Discharge Requirements (WDRs) for the discharge of waste, which may impact the waters of the State. Furthermore, the development of water quality control plans, or Basin Plans, are required by Porter-Cologne to protect water quality.

3.9.1.2.2 NPDES Program - Construction Activity

The NPDES program regulates municipal and industrial storm water discharges under the requirements of the CWA. California is authorized to implement a statewide storm water discharge permitting program, with the SWRCB as the permitting agency. This permit regulates discharges from construction sites and Linear Underground projects (LUPs) that disturb one acre or more of total land area. By law, all storm water discharges associated with construction activity where clearing, grading, and excavation results in soil disturbance must comply with the



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

provisions of this NPDES Construction General permit. The permitting process requires the development and implementation of an effective Storm Water Pollution Prevention Plan (SWPPP). The project applicant must prepare a SWPPP prior to the beginning of construction. The SWPPP must include best management practices (BMPs) to reduce pollutants to the maximum extent practicable. Implementation of the SWPPP starts with the commencement of construction and continues until the project area is stabilized. Upon completion of the project, the applicant must submit a Notice of Termination to the SWRCB to indicate that construction is completed.

3.9.1.2.3 California Department of Fish and Wildlife – Section 1602

The California Department of Fish and Wildlife (CDFW) administers the Lake and Streambed Alteration Agreement program. Fish and Game Code section 1602 requires that entities notify CDFW before commencing activities which may substantially divert or obstruct the natural flow of a river, stream or lake; substantially change or use any material from the bed, channel, or bank of any river, stream or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. In addition, the jurisdiction applies to work undertaken in the floodplain of a water body. CDFW will determine whether an activity requires a Lake and Streambed Alteration Agreement. The Agreement will include necessary measures to protect fish and wildlife resources, and CDFW may suggest ways to change the project to eliminate or reduce impacts to fish and wildlife resources. CDFW must comply with CEQA prior to finalizing a Lake and Streambed Alteration Agreement.

3.9.1.3 Local Regulations

3.9.1.3.1 Nevada County General Plan

The Nevada County General Plan (Nevada County, 1996) contains the following goal to control erosion.

Goal 12.1: Minimize adverse impacts of grading activities, loss of soils, and soil productivity.

3.9.1.3.2 Western Nevada County Non-Motorized Recreational Trails Master Plan

The Western Nevada County Non-Motorized Recreational Trails Master Plan (Nevada County, 2010) contains the following policy to control erosion.

Policy 7.5: Employ Best Management Practices in trail construction to prevent soil erosion and instability, substantially changing drainage patterns, and negative effects on water features.

3.9.1.3.3 Nevada County Land Use and Development Code

The Nevada County Land Use and Development Code contains the following codes in relation to hydrology and water quality that are applicable to the proposed Project.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Section L-V Article 19.2A: This article sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishes standards of required performance in preventing or minimizing water quality impacts from storm water runoff; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction, drainage, and erosion and sediment controls at construction sites.

3.9.1.3.4 City of Nevada City General Plan

The City of Nevada City General Plan (1986) contains objectives for Conservation and Scenic Resources. The objectives of this section of the General Plan are to preserve the existing impression of a historic town surrounded by open forest, to preserve and enhance the important natural features such as Sugarloaf, the ridges, the creeks, Gold Run, the hills within the city, and the steep terrain lying west of the City core. Policies have been put in place to ensure these objectives are met, and include:

Policy: Develop and implement a program to secure special easements to protect streamside zones as potential open space or pedestrian/bike trails, wildlife habitat, and permanent open space.

Policy: Discourage tree cutting within the City.

Policy: Prevent soil erosion and hillside scarring through control of grading, restrictions on removal of vegetation, and limitation of development on steep slopes.

3.9.2 Environmental Setting

The proposed Project is located at Pioneer Park within the Little Deer Creek watershed (USGS HUC 18020126), a sub-watershed within the Deer Creek watershed (HUC 18020125) in Nevada County. Deer Creek is a tributary to the lower Yuba River downstream of Englebright Reservoir (HUC 18020106). The Little Deer Creek watershed is located in the upper portion of the Deer Creek watershed, and encompasses 2,578 acres (4.03 mi²). The primary tributaries in the Project vicinity include Deer Creek, located approximately 800 ft northwest and downstream of the Project area, Gold Run Creek, located approximately 1800 feet west and downstream of the Project area, and Little Deer Creek, which flows through the Project site. The proposed Project area includes approximately 640 linear feet of Little Deer Creek at Pioneer Park in the City of Nevada City. Runoff from the Project site enters Little Deer Creek and flows into Deer Creek, located approximately 1,150 feet downstream of the Project site. The proposed Project area is within FEMA Flood Insurance Rate Map (FIRM) #06057C0369E, and is mapped in Zone A. Areas mapped in Zone A are subject to inundation by the 1-percent annual exceedance probability flood event (100-year flood).

Little Deer Creek is perennial in the Project area, with high flows generally occurring during winter and spring, and low flow conditions during the summer and into fall. The average annual



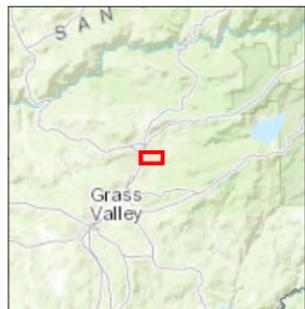
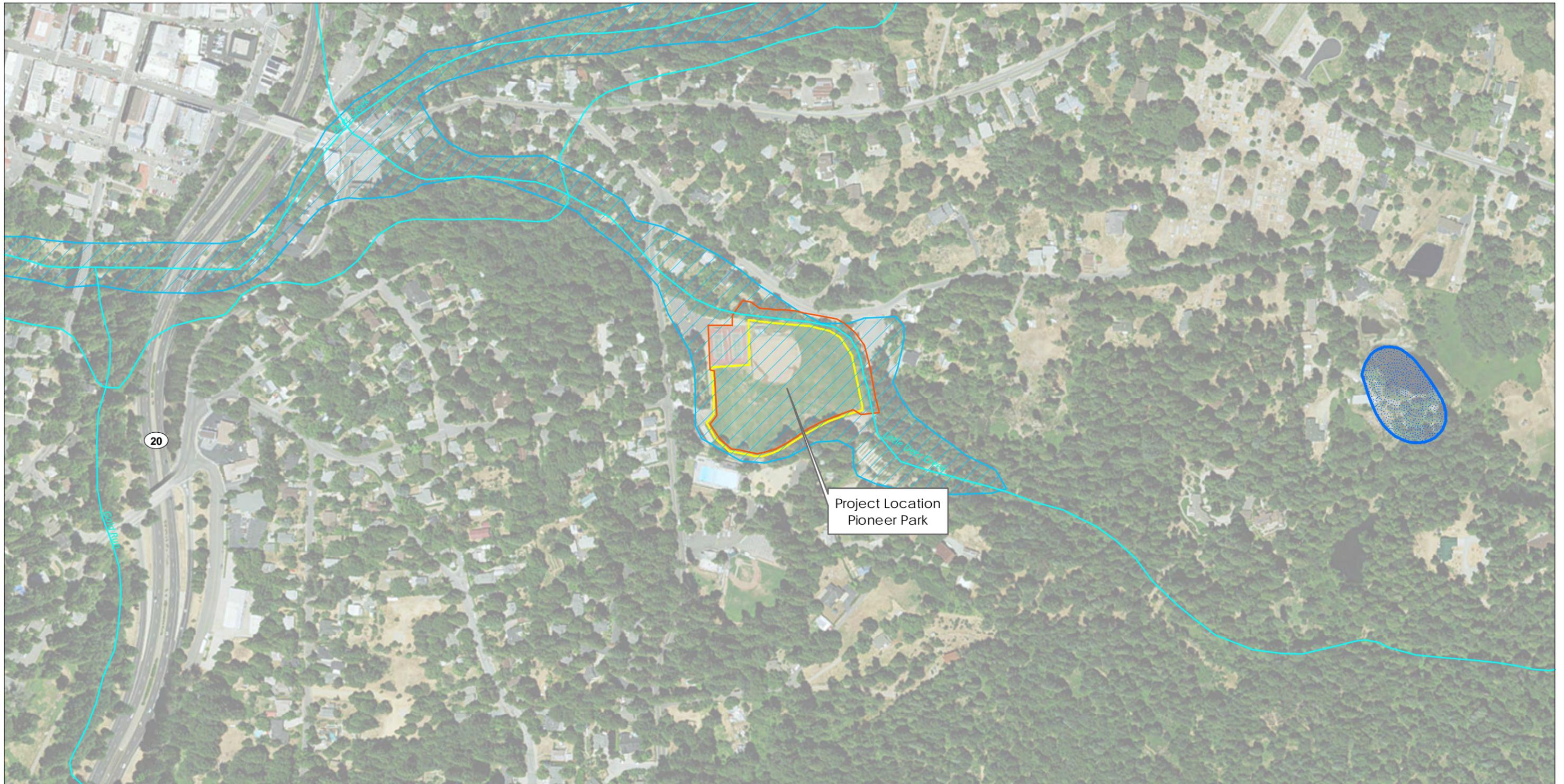
LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

precipitation in the Little Deer Creek watershed is approximately 53.9 inches, with the majority occurring between November and April as rainfall. Annual peak flows are associated with runoff derived from rain events and typically occur between December and March. Generally, ambient surface water in Little Deer Creek is of high quality (Sierra Streams Institute, 2016). Little Deer Creek is on the 303(d) list for Mercury, as a result of high mercury concentrations in fish tissue from fish collected in Little Deer Creek, which reflects the legacy of heavy metal contamination in the region that resulted from gold mining. In addition, Deer Creek is 303(d) listed for Mercury both upstream and downstream of the Little Deer Creek confluence. Additional background information on the water quality and biological resources in Little Deer Creek is provided in the Site Characterization Report as Appendix C to this document (Sierra Streams Institute, 2016).

Prior to the construction of Pioneer Park in the 1930s, Little Deer Creek flowed through what is now the middle of the lower baseball field in the northern portion of the park. Hydromodification through local development and park construction has resulted in significant stream channel impacts including channelizing and relocating the creek around the eastern and northern perimeter of the lower baseball field area. Imported fill soil was placed in the Little Deer Creek channel to regrade the site to a higher elevation and relocate the stream. The fill material was imported from a nearby site located approximately one mile southeast of Pioneer Park, on Bureau of Land Management (BLM) property adjacent to Gracie Road. Records indicate that this fill material was likely sourced from an abandoned mine site in the area, and contained relatively high arsenic concentrations (Sierra Streams Institute, 2016). Efforts to control the rerouted creek during flooding resulted in additional channel modifications including placement of concrete channel lining in various locations along the new stream channel alignment, placement of large rock as bank protection in various locations, and an earthen berm along the eastern edge of the lower baseball field on the river left streambank (river left indicates the left side of the river when looking downstream). The existing concrete channel lining is decomposing in the stream channel in several areas, there are also unlined areas showing signs of active incising. During high flows, Little Deer Creek routinely overtops its banks upstream of the channelized section and inundates the baseball field. Poor soil drainage in the field results in lengthy periods of inundation during the rainy season, thus making the lower field unusable.





Coordinate System: NAD 1983 StatePlane California II FIPS 0402 Feet

Legend

- Proposed Trail
- Hydrology
- Pioneer Park Field
- National Wetland Inventory
- Wetland Type**
- Freshwater Pond
- FEMA Flood Zone**
- Zone A: area within the 1% chance of annual flooding (100 year flood) - No Base Flood Elevations (BFE) determined

Figure No.
3.9.1

Title
Proposed Project
Hydrology and Floodplain

Client/Project
City of Nevada City
Little Deer Creek
Restoration and Flood Mitigation Project

0 160 320 Feet
1:3,755 (at original document size of 11x17)



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.9.2.1 Local Groundwater

California's groundwater provides approximately 30 to 46 percent of the State's total water supply depending on annual precipitation levels (California Department of Water Resources, 2014). Groundwater resources in western Nevada County are characterized as poorly defined and variable (Nevada County, 1996), and the California Department of Water Resources Bulletin 118 documents that the county has no defined groundwater aquifer. Generally, groundwater supplied from fractured rock sources of the Sierra Nevada Mountain Range exhibit considerable variation in terms of water quantity and quality due to many confined and unconfined groundwater layers (California Department of Water Resources, 1993). The California Department of Water Resources does not have any data on the ground water quality in the Little Deer Creek watershed where the proposed Project is located. There is groundwater quality data available for domestic wells within the Deer Creek watershed, and two USGS Groundwater Ambient Monitoring and Assessment (GAMA) groundwater quality sites (Well Id: SIERRA-M-05 and SIERRA-VL-10) located in the Upper Deer Creek watershed that were sampled in October 2008 (California Department of Water Resources, 2016). Samples from well SIERRA-M-05 exceeded the comparison concentration for Barium, Boron, Iron, Manganese, and Zinc, while samples from well SIERRA-VL-10 exceeded the comparison concentration for Barium and Copper (California Department of Water Resources, 2016). Groundwater quality data is accessible through the California Department of Water Resources GeoTracker GAMA online database (California Department of Water Resources, 2016).

3.9.3 Impact Analysis

The potential for construction and operation related impacts to hydrology and water quality are qualified in Table 3.10-1 and discussed in detail below.

Table 3.10-1 CEQA Checklist for Assessing Project Specific-Potential Impacts to Hydrology and Water Quality

IX. HYDROLOGY AND WATER QUALITY: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there should be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

IX. HYDROLOGY AND WATER QUALITY: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Inundation of seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a. f) Would the Project violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality?

Finding: Less than significant with mitigation incorporated

Construction of the proposed Project would result in soil disturbance within and adjacent to the Little Deer Creek channel through stream, trail, and field improvements, which has the potential to temporarily increase water quality hazards associated with erosion and sedimentation, including erosion and sedimentation both on and off-site.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Based on the results presented in the Site Characterization Report, construction of the proposed Project would result in disturbance of soil with total and soluble arsenic concentrations that exceed Regional Screening Levels and MCLs established by the US EPA and DTSC. As part of the Project design, following the excavation of the existing berm material and field regrading, approximately 200 cubic yards of clean import fill and rock will be placed for streambank erosion protection and up to approximately 1,500 cubic yards of clean imported fill will be placed as cover soil on the lower playing field. To address arsenic levels near the ground surface, the proposed Project would include removal and appropriate off-site disposal of arsenic impacted soil, with clean import fill material placed and compacted in the newly graded portions of the stream channel and lower field to minimize public exposure and protect water quality. Soil with elevated arsenic concentrations proposed to be left in place, will be engineered to protect from scour at high flows by placement of rock armoring in areas of high scour and/or smaller rock or gravel fill in areas of relatively low scour. The Project Engineer will design placement of clean import fill and rock to protect water quality and to provide streambank erosion protection based on a hydraulic analysis. For additional stabilization and enhancement of site conditions, native vegetation, waddles, and willow stakes will be planted and placed within and along the margins of the Little Deer Creek stream channel. Some of the existing concrete channel lining may be left in place where necessary to minimize scour and disturbance of arsenic impacted soil.

The proposed Project construction activities include the use of heavy equipment and machinery at the Project site. Maintenance of equipment involves the use of hazardous materials including gasoline and engine oil, which if spilled could cause contaminated runoff to enter soil or surface waters at the proposed Project site. The discharge of hazardous material into surface waters during construction could result in a violation of water quality standards and could result in a potentially significant impact unless mitigation is incorporated. A Stormwater Pollution Prevention Plan (SWPPP) and Spill Prevention and Contingency Plan will be prepared as mitigation measures for the proposed Project to reduce impacts associated with Project construction activities to less than significant.

Impacts to water quality, including erosion, sedimentation, flooding, etc. will be mitigated through the implementation of Mitigation Measures HYD-1, HYD-2, HYD-3, and HYD-4 which require a SWPPP, dewatering plan, Best Management Practices (BMPs), obtaining required Clean Water Act 401 and 404 permits and a Streambed Alteration Agreement from the CDFW, water quality monitoring before, during, and after the Project, and that a State of California licensed engineer stamps and certifies the Site Plans prior to Project construction.

With the implementation of Mitigation Measures HYD-1, HYD-2, HYD-3, and HYD-4, impacts are considered less than significant. Full mitigation measure descriptions can be found in section 3.10.4 below.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- b) *Would the Project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there should be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?***

Finding: Less than significant

The proposed Project includes stream and field improvements and trail installation as part of restoration of Little Deer Creek in Pioneer Park. The lower field adjacent to the creek will be regraded to reconnect the creek with the floodplain, provide additional floodplain storage volume, and improve drainage of the lower field at Pioneer Park. The outdated existing irrigation system and turf grass in the lower field will be replaced. After regrading the lower field, new turf will consist of drought tolerant vegetation with low water requirements, and a new irrigation system with low water usage requirements will be installed.

Dewatering of the Little Deer Creek channel could potentially result in short-term impacts affecting the amount of groundwater recharge in the immediate vicinity of the proposed Project, due to a decrease in surface-groundwater interactions as a result of the dewatered channel. Impacts are expected to be less than significant due to the short-term nature of the dewatering (4-6 weeks) and the small section of Little Deer Creek impacted by the dewatering (640 ft). Channel widening and reconnecting the creek channel with the floodplain could potentially increase groundwater recharge in the immediate vicinity of the Project site, as a result of increased surface-groundwater interactions in the newly widened creek channel during baseflows and on the floodplain during higher flows. A key benefit of restoring hydrologic connectivity between streams and floodplains is the potential to increase groundwater recharge, as natural floodplain functions include promoting groundwater recharge and storage (Boulton 1999).

The proposed Project implementation does not include activities that would substantially deplete groundwater supplies or interfere substantially with groundwater recharge, such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. The proposed Project will not require the use of groundwater during any phase of the Project. Therefore, impacts are considered less than significant.

- c) *Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?***

Finding: Less than significant with mitigation incorporated

The proposed Project includes tasks that involve alteration of the existing drainage pattern of the site, however this is an intended outcome of the proposed Project. Specifically, the proposed stream and field improvements will alter the existing drainage pattern of the site. Stream restoration activities are proposed to improve approximately 640 feet of Little Deer Creek in



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Pioneer Park, located between the existing Max Solaro Drive Bridge and the footbridge crossing located adjacent to the tennis courts. Restoration activities will include the removal of concrete within Little Deer Creek, removal of a soil berm on the west side of Little Deer Creek at the eastern edge of the lower field, channel widening, and placement of rock and woody materials. For additional stabilization and enhancement of site conditions, native vegetation, waddles, and willow stakes will be planted and placed within and along the margins of the Little Deer Creek stream channel. Field improvements will involve flood mitigation by re-grading the lower field to create enhanced floodplain connectivity, a natural flood channel, and improve natural drainage by providing positive surface drainage. All of these activities have the potential to impact the existing drainage pattern of the Project site.

The proposed Project includes soil disturbance through grading, excavation, and fill placement activities that could alter the existing drainage pattern of the Project site and result in erosion or siltation on or off-site. However, Mitigation Measures HYD-1, HYD-2, HYD-3, and HYD-4 will be implemented to reduce impacts associated with the proposed Project to less than significant levels. Full mitigation measure descriptions can be found in section 3.10.4 below.

- d) *Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?***

Finding: Less than significant with mitigation incorporated

The proposed Project activities will be designed to reduce flooding impacts to the lower playing field, and areas surrounding Pioneer Park, through channel widening, reconnecting the creek with the floodplain, and regrading the lower playing field to improve drainage. The proposed Project is not anticipated to increase the rate or amount of surface runoff, or the volume of flood flows, and is not anticipated to result in increased flooding on or off of the proposed Project site. Mitigation measures HYD-1, HYD-2, and HYD-4 will be implemented to reduce impacts associated with the proposed Project to less than significant. Full mitigation measure descriptions can be found in Section 3.10.4 below.

- e) *Would the Project create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?***

Finding: Less than significant with mitigation incorporated

The proposed Project has the potential to provide additional sources of polluted runoff (e.g., fuel spill) to Little Deer Creek during construction. Implementation of BMPs and mitigation measures for spill prevention and containment will occur to minimize the potential for polluted runoff due to the Project. In addition, the Project proposes temporary dewatering of approximately 640 feet of Little Deer Creek during the construction phase to complete stream and field improvements within the Little Deer Creek stream channel and reduce the potential for polluted surface runoff



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

in Little Deer Creek. A temporary coffer dam will be installed upstream of the proposed stream restoration area, and Little Deer Creek flows will be pumped around the restoration area through closed conduit piping on a continuous basis throughout Phase 1 of the proposed Project. Construction personnel will monitor dewatering on a continuous basis to maintain continuous dewatering of the Project site throughout the construction phase. Mitigation measures HYD-1, HYD-2, and HYD-3, which entail avoiding or minimizing impact to water quality, fish, and wildlife, as well as, water quality monitoring, will be implemented to reduce impacts associated with the proposed Project to a less than significant level. Full mitigation measure descriptions can be found in section 3.10.4 below.

g) Would the Project Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

Finding: No impact

The proposed Project does not include the construction of housing, and would not include the placement of housing in a 100-year flood hazard area. Therefore, no impact would occur.

h) Would the Project Place within a 100-year flood hazard area structures which would impede or redirect flood flows?

Finding: Less than significant with mitigation incorporated

The proposed Project includes stream improvements, trail installation, and regrading of the lower playing field at Pioneer Park as part of restoration of Little Deer Creek. The proposed Project area on Little Deer Creek is located within the FEMA Flood Insurance Rate Map (FIRM) #06057C0369E, and is mapped in Zone A. Areas mapped in Zone A are subject to inundation by the 1-percent-annual-exceedance probability flood event (100-year flood), and therefore the site is located within a 100-year flood hazard area.

The proposed Project includes removal of concrete within a 100-year flood hazard area. During the development of Pioneer Park, the Little Deer Creek stream channel was relocated around the eastern and northern perimeter of the lower field at Pioneer Park. A concrete channel lining was constructed in various locations along the new channel alignment, as well as an elevated soil berm. The current stream channel has a significant amount of concrete lining on the streambanks, but in many areas the existing concrete channel lining is decomposing into the stream channel. The proposed Project intends to remove the concrete in the Little Deer Creek channel. Selected areas of concrete may be broken off at the ground surface and left in place for scour protection, but where concrete is not left in place, rock and woody materials will be placed along the streambank to prevent scour.

Therefore, the proposed Project includes placement of rock and woody materials within a 100-year flood hazard area in Little Deer Creek. Rock up to 1 meter in diameter (intermediate or b-axis) will be placed along the streambanks of Little Deer Creek, to protect the streambanks from scour and erosion and to provide habitat for aquatic species. For additional stabilization and



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

enhancement of site conditions, native vegetation, waddles, and willow stakes will be planted and placed within and along the margins of the Little Deer Creek stream channel.

One of the purposes of the proposed Project activities is to improve drainage and therefore, reduce flooding impacts to the lower playing field and areas surrounding Pioneer Park, by widening the streambed and re-grading the lower playing field. The total volume of fill placed in the flood plain will not exceed the volume of material excavated and off-hauled from the site. Thus, the proposed Project is not anticipated to increase the volume of flood flows, and is not likely to result in increased flooding outside of the proposed Project area. Mitigation measure HYD-4, which entails a professional engineer stamp on all designs used for construction, will be implemented to reduce impacts associated with the proposed Project to a less than significant level. Full mitigation measure descriptions can be found in section 3.10.4 below.

i) *Would the Project expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?*

Finding: Less than significant with mitigation incorporated

See h. impact analysis above.

Flooding as a result of dam or levee failure is highly unlikely. Before the proposed stream restoration, a temporary coffer dam will be installed upstream of the proposed restoration area, and Little Deer Creek flows will be pumped around the restoration area through closed conduit piping on a continuous basis. Stream flows during Project construction are anticipated to be less than 1.0 cubic feet per second (cfs), and the temporary coffer dam will contain a volume of water less than approximately 3,000 gallons (water depth of less than 4 feet). This volume of water is not large enough to cause downstream flooding and would be confined within the existing channel of Little Deer Creek. Based on the anticipated stream flows and volume of water stored behind the temporary coffer dam, it is unlikely that people or structures will be exposed to a significant risk of loss, injury, or death involving flooding as a result of the potential failure of the temporary coffer dam installed during Project construction. Mitigation Measure HYD-4, which entails a professional engineer stamp on all designs used for construction, and will be implemented to reduce impacts associated with the proposed Project to less than significant. Full mitigation measure descriptions can be found in Section 3.10.4 below.

j) *Would the Project expose people or structures to a significant risk of loss, injury or death as a result of inundation of seiche, tsunami, or mudflow?*

Finding: Less than significant

The proposed Project site is located in the foothills of the Sierra Nevada mountains, about 150 miles inland from the Pacific Ocean at an elevation of between 2,480–2,510 feet. The proposed Project's inland and mountainous location makes the risk of a tsunami impacting the site highly unlikely. The probability of a seiche occurring in Nevada County is considered low, given the geologic characteristics of Nevada County's soils and bedrock and the overall seismic risk in the County, and is not anticipated to change from existing conditions (Nevada County, 1996).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Furthermore, the proposed Project site is not located adjacent to or near any lakes or reservoirs, with the nearest reservoir (Lower Scott's Flat Lake or Deer Creek Diversion Dam) located 3 miles to the east-north-east. The geologic materials underlying the proposed Project area are generally not associated with mudslides, and the Project is located on relatively level ground. Therefore, there is little or no risk of a mudflow at the Project site. The risk of inundation by seiche, tsunami, or mudflow is considered less than significant for the proposed Project.

3.9.4 Mitigation

Mitigation Measure HYD-1: Sedimentation and Erosion Control Measures

To comply with the requirements of the State of California General Construction Activity Storm Water Permit, the City of Nevada City shall obtain coverage under the current Construction General Permit (2009-0009-DWQ) and prepare a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP will incorporate measures and Best Management Practices which describes the site, erosion and sediment controls, means of waste disposal, implementation of approved local plans, control of post-construction sediment, and erosion control measures and maintenance responsibilities, and non-storm water management controls.

All construction contractors shall retain a copy of the approved SWPPP at the Project site and will implement the SWPPP during construction. The SWPPP will ensure that all storm water discharges are in compliance with all current requirements of the Construction General Permit (2009-0009-DWQ).

In addition, prior to construction the City of Nevada City shall develop a Spill Prevention and Contingency Plan for construction activities at the Project site. The Spill Prevention and Contingency Plan will be incorporated into the SWPPP for the proposed Project.

Mitigation Measure HYD-1 Implementation

Responsible Party: The City of Nevada City and the City's contractor shall obtain coverage under the current Construction General Permit and prepare a Stormwater Pollution Prevention Plan (SWPPP) and a Spill Prevention and Contingency Plan. This mitigation measure will be referenced in the plans and specifications bid for the proposed Project.

Timing: Prior to, during construction activities at the proposed Project site, and until the site is stabilized as defined in Order No. 2009-0009-DWQ.

Monitoring and Reporting Program: Monitoring and evaluation of the SWPPP, erosion control practices, and the Spill Prevention and Contingency Plan will be completed by the City of Nevada City and the contractor and kept on file at City Hall in the City of Nevada City and at the Project site.

Standards of Success: Minimize on and off-site erosion and prevent the introduction of significant amounts of sediment into any stream or drainage network. Ensure that all storm



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

water discharges are in compliance with all current requirements of the Construction General Permit.

Mitigation Measure HYD-2: Avoid or Minimize Impacts to Water Quality, Fish, and Wildlife

To comply with the requirements of Section 401 (Water Quality Certification), Section 404 of the Clean Water Act, and Section 1602 of Fish and Game Code, the City of Nevada City shall obtain a Section 401 Water Quality Certification from the Central Valley Regional Water Quality Control Board, a Section 404 United States Army Corps of Engineers Nationwide Permit, and a 1602 Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife, for the proposed Project work in Little Deer Creek.

In addition, to protect water quality during proposed Project construction, a dewatering plan will be implemented based on consultation with permitting agencies. Obtaining coverage under the Clean Water Act and Lake and Streambed Alteration Agreement will ensure that discharges or fill material placed into the waters of the United States will comply with provisions of the Clean Water Act and Fish and Game Code.

Mitigation Measure HYD-2 Implementation

Responsible Party: The City of Nevada City. The City shall apply for and obtain coverage under the Clean Water Act and Fish and Game Code. The City of Nevada City will work with contractors to implement the dewatering plan. This mitigation measure, the dewatering plan, and all associated federal and state permits will be referenced in the plans and specifications bid for the Project.

Timing: Permits will be applied for before implementation of the proposed Project and will cover the entire construction and restoration period of the proposed Project. Dewatering will occur during construction activities at the proposed Project site and until construction activities are completed in the Little Deer Creek channel.

Monitoring and Reporting Program: Permit documentation will be kept on file at City Hall in the City of Nevada City and at the Project site.

Standards of Success: Ensure permits are finalized and in-hand prior to starting the proposed Project implementation activities. Ensure continuous dewatering of the Little Deer Creek channel during Project construction activities in Little Deer Creek.

Mitigation Measure HYD-3: Water Quality Monitoring Before, During, and After the Proposed Project

To evaluate the effects of the Project on surface water quality, water quality monitoring will be implemented before, during, and after proposed Project construction at sites located upstream and downstream of Pioneer Park. The City will monitor surface water quality as stipulated by the RWQCB in the project-specific Water Quality Certification, to include turbidity, settleable



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

material, and heavy metals concentrations, during project construction activities. Monitoring will be conducted upstream of the influence of the proposed Project (500 feet upstream) and downstream of the proposed Project work area (500 feet downstream of the Project). Water quality monitoring will be conducted at a minimum frequency of every four hours during Project construction activities. Visible construction related pollutants will be monitored on a continuous basis through visual inspections throughout the construction period.

In addition to surface water quality monitoring during Project construction, the City will monitor surface water quality, turbidity and suspended sediment, and heavy metals concentrations as stipulated in the SWPPP at monitoring sites upstream and downstream of the Project site during runoff and storm events each year of construction.

Mitigation Measure HYD-3 Implementation

Responsible Party: The City of Nevada City.

Timing: Monitoring will occur before, during, and after the proposed Project. Surface water quality monitoring will take place at a minimum frequency of every four hours during Project construction activities, while storm sampling will occur during runoff and storm events. Monitoring will occur at sites located 500 feet upstream and 500 feet downstream of the proposed Project site.

Monitoring and Reporting Program: A surface water monitoring report will be completed every two weeks during construction and kept on file with the City. It will also be submitted to the Regional Water Quality Control Board, if required under the project-specific Water Quality Certification.

Standards of Success: Avoid increases in turbidity, settleable matter, and heavy metal concentrations in surface water downstream of the proposed Project, as stipulated in the project-specific 401 Water Quality Certification and SWPPP. In Little Deer Creek where natural turbidity is between 1 and 5 NTUs, turbidity increases during project construction shall not exceed 1 NTU, and Project construction shall not cause settleable matter to exceed 0.1 ml/L in surface waters as measured 500 feet downstream of the Project, or as specified by the RWQCB in the 401 Water Quality Certification for the Project.

Mitigation Measure HYD-4: Engineer's Certification

Placement of rock and woody materials within the 100 year flood hazard area will follow designs from the Project engineer to ensure structures placed within the flood hazard area do not increase on or off-site flood hazards relative to existing conditions, and the Project does not result in substantial erosion, siltation, or flooding on- or off-site. Project design plans will incorporate topographic and cross sectional elevation data and use hydraulic modeling to prevent increased flood hazards and erosion or siltation to the extent feasible. A professional engineer will stamp and certify all designs used for construction.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Mitigation Measure HYD-4 Implementation

Responsible Party: The City of Nevada City shall work with the contractor and the project proponent, Sierra Streams Institute staff, to ensure the proposed Project plans are stamped and certified by the Project Engineer.

Timing: The Engineer's Certification will be provided on Site Plans prior to starting proposed Project construction activities.

Monitoring and Reporting Program: The City of Nevada City and contractors will monitor to ensure the Project Engineer certifies proposed Project design plans. Documentation will be kept on file at City Hall in the City of Nevada City and at the Project site.

Standards of Success: Ensure an engineer licensed with the State of California stamps and certifies the Site Plans for the proposed Project prior to construction activities.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.10 LAND USE PLANNING

The following land use section evaluates the proposed Project's consistency with and impacts to land use plans and policies. The section begins with the regulatory setting discussing the applicable land use plans and policies within the project area. The environmental setting is discussed including the specific land use and zoning designations of the Project area. The third section evaluates the potential impacts of the proposed Project looking to both the regulatory and environmental setting to assess the potential for the project to cause a significant impact to land use planning.

3.10.1 Regulatory Settings

3.10.1.1 Nevada County General Plan

The Nevada County General Plan sets several goals, policies, and objectives to guide development. The proposed Project will comply with the goals, policies, and objectives of Chapter 1: Land Use and Chapter 11: Water of the Nevada County General Plan (Nevada County General Plan 1996, Land Use Element amended in 2014). The General Plan identifies areas within the County in which growth should be directed to provide compact areas of development as *Community Regions*. The General Plan divides the County into *Community Regions* and *Rural Regions* and all of the land area within the County is placed in one of these regions. Nevada City is considered a *Community Region* by the General Plan.

The Nevada County General Plan goals, policies, and objectives relative to the proposed Project are as follows:

Goal 1.1: Promote and encourage growth in *Community Regions* while limiting growth in *Rural Regions*.

Policy 1.1.3: Within Nevada County, the *Community Regions* are established as the areas of the County within which growth should be directed to provide compact, areas of development where such development can be served most efficiently and effectively with necessary urban services and facilities.

Goal 1.4: Within *Community Regions*, provide for an adequate supply and broad range of residential, employment-generating, and cultural, public and quasi-public uses located for convenience, efficiency, and affordability while protecting, maintaining, and enhancing communities and neighborhoods.

Goal 1.4: Within *Community Regions*, provide for an adequate supply and broad range of residential, employment-generating, and cultural, public and quasi-public uses located for convenience, efficiency, and affordability while protecting, maintaining, and enhancing communities and neighborhoods.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Policy 1.4.2: Development within the Community Regions shall be consistent with the overall rural quality of life in the County, as demonstrated through sensitivity to resource constraints, provision of interwoven open space as a part of development, and community design which respects the small town or village character of the Community Regions. These criteria shall be accomplished through application of the Comprehensive Site Design Standards in review of discretionary and ministerial projects.

Goal 11.1: Identify, protect, and manage for sustainable water resources and riparian habitats.

Policy 11.1: Promote and provide for conservation of domestic and agricultural water.

3.10.1.2 Western Nevada County Non-Motorized Recreational Trails Master Plan

The Western Nevada County Non-Motorized Recreational Trails Master Plan goals and policies relative to the proposed Project are as follows:

Goal 1: Provide a wide-range of safe, convenient, and enjoyable recreational trails opportunities for multiple non-motorized users.

Policy 1.4: Encourage the creation of new and maintenance of existing recreational trails and support facilities to serve existing developed areas.

Policy 1.5: Encourage the development of recreational trails that are accessible to physically challenged individuals.

Goal 2: Provide a recreational trail system that connects or provides access to recreational, educational, natural, cultural, and historical resources.

Policy 2.3: Create non-motorized trails that connect to public parklands and other existing or proposed recreational opportunities.

Goal 3: Work with affected private landowners to address concerns and effectively plan for the recreational trails system.

Policy 3.1: Promote recreational trails on existing public lands, public easements, and other public rights-of-way.

Policy 3.5: Design recreational trails to minimize and avoid if possible, bifurcation of private property and to be located within open space parcels, linear parks, or designated no build areas to minimize potential conflicts with adjacent land uses.

Goal 7: Promote the design and development of quality trails in keeping with the rural foothill character of Nevada County.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Policy 7.6: Ensure that County recreational trails within a City Sphere of Influence are compatible with applicable City design guidelines.

3.10.1.3 City of Nevada City General Plan

The City of Nevada City General Plan (1986) includes the following specific objective and policies within the City Resources and Public Safety Elements that are applicable to the proposed Project as it relates to Public Services.

Objective: Include consideration of both resident and non-resident users in planning future park needs and funding sources.

Policy: Investigate opportunities for extension of public trails along Deer Creek and Little Deer Creek, especially in connection with features of historic importance, such as the flume at Pine Street Bridge.

3.10.2 Environmental Setting

The proposed Project has taken the Pioneer Park Master Plan, Nevada City General Plan, and Western Nevada County Non-Motorized Recreational Trails Master Plan goals, objectives, and regulations, as discussed above, into consideration during the planning stages of the project. The proposed Project improvements would be located on land that is currently owned and operated by the City of Nevada City and managed by the Nevada City Parks and Recreation department.

The proposed Project site is located in the incorporated area of Nevada City. The land use of the proposed Project site is designated by the Nevada County General Plan as Incorporated Area (Nevada City). Zoning designation of the proposed Project site is Public (PUB). Pursuant to the Nevada County Zoning Regulations the PUB designation is intended to provide for land for public or quasi-public ownership in locations which are necessary to provide services to *Community Regions* and *Rural Regions* (Nevada County General Plan 2014). The Nevada City General Plan map designates the zoning of Pioneer Park as Public, defined as: sites or facilities intended to remain in long-term public use.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.10.3 Impact Analysis

The potential land use and planning related impacts for the Project are summarized in Table 3-9.1 and discussed below.

Table 3.9-1 CEQA Checklist for Assessing Project-Specific Potential Impacts to Land Use Planning

IX. LAND USE AND PLANNING -- Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural communities' conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Would the Project physically divide an established community?

Finding: No impact

The proposed project would upgrade the existing conditions within Pioneer Park. Construction activities (including staging areas) would all be on-site at the park and would not have a permanent effect on the established community of Nevada City. The proposed Project would not physically divide an established community; therefore, there is no impact.

b) Would the Project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Finding: No impact

The proposed Project would not conflict with any land use plans, policies, or regulations that are applicable to the proposed Project. The project is consistent with the County's policies regarding 'Community Regions' such as Nevada City. Since, no change in land use is proposed or required and none would result from the implementation of the proposed Project, the project will have no impact to applicable land use plan, policy, or regulations.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

c) *Would the Project conflict with any applicable habitat conservation plan or natural communities' conservation plan?*

Finding: No impact

There are no habitat conservation plans or natural community conservation plans that apply to the proposed Project site. Therefore, the proposed Project would not conflict with any such plan and there would be no impact. Impacts to sensitive species, riparian habitats, etc. are discussed in the Biological Resources section of this IS/MND.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.11 MINERAL RESOURCES

3.11.1 Regulatory Setting

3.11.1.1 Federal Regulations

3.11.1.1.1 The Mining and Minerals Policy Act of 1970 (30 U.S.C 21(a))

The Mining and Minerals Policy Act of 1970 declared that it is in the national interest to foster and encourage private enterprise in the following ways:

- Development of economically sound and stable domestic mining and mineral related industries.
- Orderly and economic development of mineral resources to satisfy industrial, security, and environmental needs.
- Research to promote wise and efficient use of resources.
- Research and development of mining and reclamation methods to lessen the impact of mining on the environment.

This act codified the importance of mining and mineral resources and recognized that public policy should evaluate these resources.

3.11.1.2 State Regulations

3.11.1.2.1 Surface Mining and Reclamation Act

The State of California enacted the SMARA in 1975 in part to identify the location of and preserve access to significant mineral deposits. The state geologist is required by SMARA to prepare maps that identify Mineral Resource Zones (MRZs) including areas of presence or likely presence of significant mineral deposits, MRZ-2. Areas that may have mineral resources, but where the presence cannot be determined from available information are identified as MRZ-3. Additionally, SMARA requires local governments to evaluate the presence of mineral resources in their General Plans and when making land use decisions.

3.11.2 Environmental Setting

Nevada County has significant mineral resources, including gold, which have played a major role regionally, statewide, and nationally. Significant mineral resources in the County include gold (in various forms), silver, copper, zinc, lead, chromite, tungsten, manganese, barite, quartz, limestone, asbestos, clay, mineral paint, sand, gravel, and rock (Nevada County General Plan 1996). Mineral resources are most concentrated in the western half of the County. Many of the mineral resource areas are located in the Nevada City and Grass Valley area including



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

several abandoned placer and hard rock gold mines the Project area. No identified mines are located on the Project site, however the eastern portion of the site is mapped as Placer Diggings, which consist of placer mining debris deposited by historic placer mining activities on Little Deer Creek. In addition, over 30 abandoned mines including hard rock gold mines are located in the Little Deer Creek drainage upstream of the Project area.

3.11.3 Impact Analysis

The potential impacts to mineral resources are addressed in Table 3.11-1 and analyzed below.

Table 3.11-1 CEQA Checklist for Assessing Project-Specific Potential Impacts to Mineral Resources

XI. MINERAL RESOURCES: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource classified MRZ-2 by the State Geologist that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) *Would the Project result in the loss of availability of a known mineral resource classified MRZ-2 by the State Geologist that would be of value to the region and the residents of the state?*

Finding: No impact

According to the Nevada County General Plan Master Environmental Inventory, there are no mineral sources classified as MRZ-2 located within the vicinity of the Project area. Therefore, the Project would not cause the loss of availability of known mineral resources. No impact would occur.

b) *Would the Project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*

Finding: No impact

Based on maps presented within the Nevada County General Plan Master Environmental Inventory, the Project area contains no known locally important or mineral recovery sites. The Project would not alter current conditions with respect to mineral availability. Therefore, the Project would not cause the loss of availability of locally important mineral resource recovery sites and no Impact would occur.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.12 NOISE

Noise is generally defined as unwanted sound that annoys or disturbs people and potentially causes an adverse psychological or physiological effect on human health. Because noise is an environmental pollutant that can interfere with human activities, evaluation of noise is necessary when considering the environmental impacts of a proposed project.

Sound is mechanical energy (vibration) transmitted by pressure waves over a medium such as air or water. Sound is characterized by various parameters that include the rate of oscillation of sound waves (frequency), the speed of propagation, and the pressure level or energy content (amplitude). In particular, the sound pressure level is the most common descriptor used to characterize the loudness of an ambient (existing) sound level. Although the decibel (dB) scale, a logarithmic scale, is used to quantify sound intensity, it does not accurately describe how sound intensity is perceived by human hearing. The perceived loudness of sound is dependent upon many factors, including sound pressure level and frequency content. The human ear is not equally sensitive to all frequencies in the entire spectrum, so noise measurements are weighted more heavily for frequencies to which humans are sensitive in a process called A-weighting, written as dBA and referred to as A-weighted decibels. There is a strong correlation between A-weighted sound levels (expressed as dBA) and community response to noise. For this reason, the A-weighted sound level has become the standard tool of environmental noise assessment. Table 3.12-1 defines sound measurements and other terminology used in this study.

In general, human sound perception is such that a change in sound level of 1 dB cannot typically be perceived by the human ear, a change of 3 dB is barely noticeable, a change of 5 dB is clearly noticeable, and a change of 10 dB is perceived as doubling or halving the sound level. Audible changes in the existing ambient or background noise levels are considered potentially significant.

Different types of measurements are used to characterize the time-varying nature of sound. These measurements include the equivalent sound level (L_{eq}), the minimum and maximum sound levels (L_{min} and L_{max}), percentile-exceeded sound levels (such as L_{10} , L_{20}), the day-night sound level (L_{dn}), and the community noise equivalent level (CNEL). L_{dn} and CNEL values differ by less than 1 dB. As a matter of practice, L_{dn} and CNEL values are considered to be equivalent and are treated as such in this assessment.

For a point source such as a stationary compressor or construction equipment, sound attenuates based on geometry at rate of 6 dB per doubling of distance. For a line source such as free flowing traffic on a freeway, sound attenuates at a rate of 3 dB per doubling of distance (Federal Highway Administration 2011). Atmospheric conditions including wind, temperature gradients, and humidity can change how sound propagates over distance and can affect the level of sound received at a given location. The degree to which the ground surface absorbs acoustical energy also affects sound propagation. Sound that travels over an acoustically absorptive surface such as grass attenuates at a greater rate than sound that travels over a hard surface such as pavement. The increased attenuation is typically in the range of 1–2 dB per doubling of distance. Barriers such as buildings and topography that block the line of sight between a source and receiver also increase the attenuation of sound over distance.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.12-1 Definition of Sound Measurement

Sound Measurements	Definition
Decibel (dB)	A unitless measure of sound on a logarithmic scale, which indicates the squared ratio of sound pressure amplitude to a reference sound pressure amplitude. The reference pressure is 20 micro-pascals.
A-Weighted Decibel (dBA)	An overall frequency-weighted sound level in decibels that approximates the frequency response of the human ear.
Maximum Sound Level (Lmax)	The maximum sound level measured during the measurement period.
Minimum Sound Level (Lmin)	The minimum sound level measured during the measurement period.
Equivalent Sound Level (Leq)	The equivalent steady state sound level that in a stated period of time would contain the same acoustical energy.
Day-Night Level (Ldn)	The energy average of the A-weighted sound levels occurring during a 24-hour period, with 10 dB added to the A-weighted sound levels occurring during the period from 10:00 p.m. to 7:00 a.m.
Community Noise Equivalent Level (CNEL)	The energy average of the A-weighted sound levels occurring during a 24-hour period with 5 dB added to the A-weighted sound levels occurring during the period from 7:00 p.m. to 10:00 p.m. and 10 dB added to the A-weighted sound levels occurring during the period from 10:00 p.m. to 7:00 a.m.
Peak Particle Velocity (Peak Velocity or PPV)	A measurement of ground vibration defined as the maximum speed (measured in inches per second) at which a particle in the ground is moving relative to its inactive state. PPV is usually expressed in inches/second.
Frequency: Hertz (Hz)	The number of complete pressure fluctuations per second above and below atmospheric pressure.

Vibration

Operation of heavy construction equipment, particularly pile driving and other impact devices such as pavement breakers, create seismic waves that radiate along the surface of the earth and downward into the earth. These surface waves can be felt as ground vibration. Vibration from operation of this equipment can result in effects ranging from annoyance of people to damage of structures. Varying geology and distance will result in different vibration levels containing different frequencies and displacements. In all cases, vibration amplitudes will decrease with increasing distance.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Perceptible groundborne vibration is generally limited to areas within a few hundred feet of construction activities. As seismic waves travel outward from a vibration source, they excite the particles of rock and soil through which they pass and cause them to oscillate. The actual distance that these particles move is usually only a few ten-thousandths to a few thousandths of an inch. The rate or velocity (in inches per second) at which these particles move is the commonly accepted descriptor of the vibration amplitude, referred to as the peak particle velocity (PPV).

Table 3.12-2 summarizes typical vibration levels generated by construction equipment (Federal Transit Administration 2006).

Table 3.12-2 Vibration Source Levels for Construction Equipment

Equipment	PPV at 25 Feet
Pile driver (impact)	0.644 to 1.518
Pile drive (sonic/vibratory)	0.170 to 0.734
Vibratory roller	0.210
Hoe ram	0.089
Large bulldozer	0.089
Caisson drilling	0.089
Loaded trucks	0.076
Jackhammer	0.035
Small bulldozer	0.003
Source: Federal Transit Administration 2006	

Vibration amplitude attenuates over distance and is a complex function of how energy is imparted into the ground and the soil conditions through which the vibration is traveling. The following equation can be used to estimate the vibration level at a given distance for typical soil conditions (California Department of Transportation 2013). PPVref is the reference PPV from Table 3.13-2:

$$PPV = PPV_{ref} \times (25/Distance)^{1.5}$$

Table 3.12-3 summarizes guidelines vibration annoyance potential criteria suggested by Caltrans (California Department of Transportation 2013).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.12-3 Guideline Vibration Annoyance Potential Criteria

Human Response	Maximum PPV (in/sec)	
	Transient Sources	Continuous/Frequent Sources
Barely perceptible	0.04	0.01
Distinctly perceptible	0.25	0.04
Strongly perceptible	0.9	0.10
Severe	2.0	0.4

Notes: Transient sources create a single isolated vibration event, such as blasting or drop balls. Continuous/frequent intermittent sources include impact pile drivers, pogo-stick compactors, crack-and-seat equipment, vibratory pile drivers, and vibratory compaction equipment.
Source: California Department of Transportation 2013.

Table 3.12-4 summarizes guideline vibration damage potential criteria suggested by Caltrans (California Department of Transportation 2004).

Table 3.12-4 Guideline Vibration Damage Potential Criteria

Structure and Condition	Maximum PPV (in/sec)	
	Transient Sources	Continuous/Frequent Sources
Extremely fragile historic buildings, ruins, ancient monuments	0.12	0.08
Fragile buildings	0.2	0.1
Historic and some old buildings	0.5	0.25
Older residential structure	0.5	0.3
New residential structures	1.0	0.5
Modern industrial/commercial buildings	2.0	0.5

Notes: Transient sources create a single isolated vibration event, such as blasting or drop balls. Continuous/frequent intermittent sources include impact pile drivers, pogo-stick compactors, crack-and-seat equipment, vibratory pile drivers, and vibratory compaction equipment.
Source: California Department of Transportation 2013.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.12.1 Regulatory Setting

The Nevada City General Plan describes noise exposure related to public safety. The plan states:

The major noise generator in the City is traffic; noise exposure increases with traffic volume, unless measures are taken to shield uses adjacent to the traffic corridor.

Table 3.12-5 sets out a Land Use Compatibility Chart for noise exposure, as recommended by state guidelines. To maintain noise levels within the "normal acceptable" range, single family residential should not be exposed to greater than 60 Ldn, hotel/motel to no greater than 65 Ldn, and office/commercial, no greater than 70 Ldn.

Table 3.12-5 Land Use Compatibility for Community Noise Environments

Community Noise Exposure Level (CNEL)							
Land Use Receiving the Noise	55	60	65	70	75	80	
Residential-Low Density, Single Family, Duplex, Mobile Homes	Normally Acceptable	Normally Acceptable	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable
Residential-Multifamily	Normally Acceptable	Normally Acceptable	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable
Transient Lodging, Motels, Hotels	Normally Acceptable	Normally Acceptable	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable
Schools, Libraries, Churches, Hospitals, Nursing Homes	Normally Acceptable	Normally Acceptable	Normally Acceptable	Normally Acceptable	Conditionally Acceptable	Normally Unacceptable	Clearly Unacceptable
Auditoriums, Concert Halls, Amphitheaters	Conditionally Acceptable	Clearly Unacceptable					

Normally Acceptable
Specified land use is satisfactory, based on the assumption that any buildings involved are of normal construction, without any special noise insulation requirements.

Conditionally Acceptable
New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation feature included in the design.

Normally Unacceptable
New construction of development should be discouraged. If new construction of development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design.

Clearly Unacceptable
New construction or development clearly should not be undertaken.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Community Noise Exposure Level (CNEL)							
Sports Arena, Outdoor Spectator Sports	0-10	10-20	20-30	30-40	40-50	50-60	60-70
Playgrounds, Neighborhood Parks	0-10	10-20	20-30	30-40	40-50	50-60	60-70
Golf Courses, Riding Stables, Water Recreation, Cemeteries	0-10	10-20	20-30	30-40	40-50	50-60	60-70
Office, Business, Retail Commercial	0-10	10-20	20-30	30-40	40-50	50-60	60-70
Industrial Manufacturing, Agriculture, Utilities	0-10	10-20	20-30	30-40	40-50	50-60	60-70
Source: State of California Office of Noise Control							

As described in the Nevada City General Plan, “The major noise generator in Nevada City is traffic; noise exposure increases with traffic volume, unless measures are taken to shield uses adjacent to the traffic corridor.” Based on the State of California Land Use Compatibility for Community Noise Environments, the normally acceptable noise range at Pioneer Park would range from 50 dBA to 70 dBA.

3.12.1.1 Nevada County

The Noise Element of the Nevada County General Plan (1996) establishes maximum allowable exterior noise levels for various land use categories in terms of the average-hourly (Leq) and maximum intermittent (Lmax) noise descriptors. Maximum allowable noise standards are identified for daytime (7:00 AM to 7:00 PM), evening (7:00 PM to 10:00 PM), and nighttime (10:00 PM to 7:00 AM) periods. The County’s noise standards, which are typically applied to non-transportation noise sources, are summarized in Table 3.12-6, County of Nevada Exterior Noise Limits. These noise standards are also identified in the Nevada County Land Use Development Code, Chapter II, Zoning Regulations (Section L-II, 4.1.7, Noise). Construction activities are exempt from the County’s noise standards.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.12-6 County of Nevada Exterior Noise Limits

Land Use Category	Zoning District	Time Period	Noise Level	
			Leq	Lmax
Rural	AG, TPZ, AE, OS, FR, IDR	7 am – 7 pm	55	75
		7 pm – 10 pm	50	65
		10 pm – 7 am	40	55
Residential and Public	RA, R1, R2, R3	7 am – 7 pm	55	75
		7 pm – 10 pm	50	65
		10 pm – 7 am	40	60
Commercial and Recreation	C1, C2, C3, CH, CS, OP, REC	7 am – 7 pm	70	90
		7 pm – 7 am	65	75
Business Park	BP	7 am – 7 pm	65	85
		7 pm – 7 am	60	70
Industrial	M1, M2	Anytime	55	75

3.12.1.2 Nevada City General Plan

Maintain noise levels compatible with the rural and small-town setting of Nevada City.

- Adopt the Land Use Compatibility Chart "normally acceptable" range as a standard to be used in environmental evaluation of proposed uses.

3.12.2 Environmental Setting

The proposed Project is located in a residential zone and significant noise sources in the area include those from traffic. Maximum allowable noise levels for residential and noise sensitive use areas are between 55 and 75 decibels (dBA) between the hours of 7 a.m. and 7 p.m. for both rural and residential/public land use categories (Nevada County General Plan 2014).



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.12.3 Impact Analysis

Potential noise impacts from construction activities area addressed in Table 3.12-2 and discussed below.

Table 3.12-7 CEQA Checklist for Assessing Project-Specific Potential Noise Impacts

XII. NOISE: Would the Project result in:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport of public use airport, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) Would the Project result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Finding: Less than significant with mitigation incorporated

The construction of the proposed Project would occur in three phases as discussed in Section 1.0 Project Description. Phase 1 would include the restoration of Little Deer Creek this would entail the removal of concrete along the creek bank and removal of the soil berm that runs adjacent to the creek, as well as channel widening and placement of rock and woody material along the banks of the creek. Phase 1 would entail the use of construction related equipment including,



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

an excavator, backhoes, loaders, dump trucks, etc. Construction of Phase 1 is expected to last two months and would occur in the summer of 2017. Phase 2 would consist of stripping the existing turf and underlying soil, topsoil replacement and final grading, seeding and/ sod installation, and irrigation system improvements. Construction of Phase 2 is expected to last two months and would occur in the summer of 2018. Noise impacts associated with the Phase 2 construction would result in temporary or periodic increases in ambient noise levels, especially during grading activities. Phase 3 includes the construction of a trail that will traverse the outside edge of the Lower Field and is expected to last approximately one month and would occur in the summer/fall of 2018. Construction equipment noise associated with trail construction would include a mini excavator and a backhoe.

Two types of short-term noise impacts could occur during the construction of the project. First, construction crew commutes and the transport of construction equipment and materials to the site for the project would incrementally increase noise levels on access roads leading to the site. The projected construction traffic would be short-term, consisting of construction worker commutes and delivery/removal of construction equipment, causing intermittent noise nuisance (passing trucks at 50 feet would generate up to a maximum of 76.5 dBA Lmax, see Table 5). The associated short-term noise increase along Park Avenue, Nimrod Street, and at the nearest sensitive receptors would be perceptible; however, such a noise increase would be instantaneous and short-term. Therefore, short-term, construction-related impacts associated with worker commute and equipment transport to the project site would be less than significant.

The second type of short-term noise impact is related to noise generated during Project construction. Construction activities would be performed in phases; creek restoration, grading of The Lower Field, and the trail construction and, consequently, its own noise characteristics. These various construction operations would change the character of the noise generated at the project site and, therefore, the ambient noise level as construction progresses. The loudest phases of construction include excavation and grading phases, as the noisiest construction equipment is earthmoving equipment.

The Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM), used as the FHWA's national standard for predicting noise generated from construction activities was used to predict potential Project-specific noise impacts during construction. The RCNM analysis includes the calculation of noise levels (Lmax and Leq) at incremental distances for a variety of construction equipment. The results of the RCNM are included in Table 3.12-8, which lists equipment that is expected to be used during Project construction. Lmax sound levels at various distances are shown along with the typical acoustic use factor. The acoustic use factor is the percentage of time each piece of construction equipment is assumed to be operating at full power (i.e., its loudest condition) during construction and is used to estimate Leq values from Lmax values. For example the Leq values for a piece of equipment that operates at full power 50% of the time (acoustical use factor of 50) is 3 dB less than the Lmax value.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.12-8 Typical Construction Noise Emission Levels

Equipment	Typical Noise Level (Lmax)*	Acoustical Use Factor	Typical Noise Level (Leq)	Distance from Nearest Receptor	Project Phase Where Equipment will be Used
Pumps	67.9	50	64.9	225	Phase 1
Grader	85	40	81	50	Phase 2
Backhoe	71.5	40	67.6	100	Phase 1, 2 and 3
Excavator	71.2	40	67.2	150	Phase 1, 2 and 3
Flat Bed Trucks	74.3	40	70.3	50	Phase 1, 2 and 3
Front End Loader	69.6	40	65.6	150	Phase 1, 2 and 3
Dump Trucks	76.5	40	72.5	50	Phase 1, 2 and 3

Notes: *dBA, A-weighted decibel level.

Source: Federal Highway Administration RCNM.

Phase 1, creek restoration would occur along an approximate 640 feet of Little Deer Creek that runs along the north and western edge of Pioneer Park. During the creek restoration, the creek will need to be diverted using a coffer dam, pump, and piping, so that the restoration work can occur while the creek bed is dry. The pump would be located upstream of the bridge in the southeast corner of the Lower Field, approximately 225 feet from the nearest receptor. Based on the RCMN, it is estimated that the noise levels at the nearest residential receptor would be approximately 64.9 Leq and 67.9 Lmax. It is anticipated that noise levels at this receptor would in actuality be lower than the model predicts due to the surrounding tall, dense trees. According the Federal Highway Administration Noise Barrier Design Handbook, "for vegetation to provide a substantial, or even noticeable, noise reduction, the vegetation area must be at least 5 m (15 ft) in height, 30 m (100 ft) wide and dense enough to completely obstruct the line-of-sight between the source and the receiver. This size of vegetation area may provide up to 5 dB(A) of noise reduction. Taller, wider, and denser areas of vegetation may provide even greater noise reduction." Given the trees surrounding the nearest home are far taller than 15 feet in height and are dense, there would be at least a 5 dBA reduction in noise levels at the receptor. The pump would need to run 24 hours per day to ensure that the creek is continuously diverted and does not pool or overflow onto the field or into the road. According the Nevada City General Plan, noise levels associated with construction of phase 1, including the operation of the pump, would be considered "normally acceptable". In order to reduce potential impacts from noise during phase 1 construction, Mitigation Measure Noise-1 would be implemented; therefore, potential impacts would be considered less than significant with mitigation incorporated.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Phase 2 and phase 3 would include the grading of the Lower Field and the construction of the trail, respectively. The nearest residence is approximately 50 feet from the field, it is likely that noise levels would occasionally increase above the Nevada City “normally acceptable” levels, see table 6. The RCNM predicts that noise levels that nearest receptor could temporarily reach 81 Leq and 85 Lmax during grading activities. However, grading within 50 feet of the nearest sensitive receptor would be short-term, up to one week, and would occur during the daytime hours between 7:00 a.m. and 7:00 p.m. Additionally, construction equipment would be equipped with a muffled exhaust. Mitigation Measure Noise-1 would be implemented, which includes the placement of construction noise barriers, if needed. As such, the potential noise impacts are expected to be less than significant with mitigation incorporated.

Operation of the project would be the same as existing condition; therefore, no further analysis is required.

b) Would the Project result in exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?

Finding: Less than significant

During construction of the proposed project, equipment such as excavators, graders, loaders backhoes, and bulldozers may be used as close as 50 feet from the closest sensitive receptor. Construction equipment that would be used during project construction would generate vibration levels between 0.001 and 0.031 PPV as measured at a distance of 50 feet from the operating machinery, see Table 3.12-9. According to Table 3.12-3, the groundborne vibration levels are below the FTA vibration threshold at which human annoyance could occur of 0.1 PPV. Therefore, construction related groundborne vibration impacts would be less than significant.

Table 3.12-9 Construction Equipment Related to Groundborne Vibration

Type of Equipment	Peak Particle Velocity at 25 feet	Peak Particle Velocity at 50 feet	Peak Particle Velocity at 100 feet	Threshold at which Human Annoyance could Occur	Potential for proposed project to exceed threshold
Large Bulldozer	0.089	0.031	0.011	0.1	None
Loaded Trucks	0.076	0.027	0.010	0.1	None
Small Bulldozer	0.003	0.001	0.000	0.1	None

Source: Federal Transit Administration, Transit Noise and Vibration Impact Assessment Guidelines 2006b

Furthermore, potential ground borne vibrations or noise would be temporary and would occur during daylight hours. Therefore, ground borne noise and vibration impacts are considered less than significant.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

c) *Would the Project result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project?*

Finding: Less than significant

The operation of the proposed Project will be similar to existing operations. The proposed Project is not expected to cause a permanent increase in ambient noise levels. There would be a less than significant impact on noise levels associated with operation of the proposed Project.

d) *Would the Project result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project?*

Finding: Less than significant with mitigation

During the construction of the proposed project including grading and excavation activities, noise from construction would add to the noise environment in the project area. Table 9 lists equipment that is expected to be used along with noise levels generated from the FHWA RCNM (Federal Highway Administration 2006a). Lmax sound levels at the nearest receptor (50 feet) are shown along with the typical acoustic use factor. The acoustical use factor is the percentage of time each piece of construction equipment is assumed to be operating at full power (i.e., its loudest condition) during construction and is used to estimate Leq values from Lmax values. For example the Leq value for a piece of equipment that operates at full power 50% of the time (acoustical use factor of 50) is 3 dB less than the Lmax value.

The nearest receptor to the project site is residential property located to the west of the Lower Field, at approximately 50 feet from the project boundary. Due to the close proximity of the home, the residents could potentially be affected by construction noise. Therefore, Mitigation Measure NOISEI-1 would be implemented to minimize impact from construction generated noise.

Construction activities of the proposed Project would result in temporary increases in noise above existing levels. Construction activities are temporary (estimated at 60 calendar days for phase 1, 60 days for phase 2, and 30 to 60 days for phase 3) and would only occur between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and possibly Saturdays as described in Mitigation Measure NOISE-1. Therefore, this impact is considered less than significant with mitigation.

e) *For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport of public use airport, would the Project expose people residing or working in the Project area to excessive noise levels?*

Finding: Less than significant

The proposed Project area is not located within an airport land use plan; nor is it within two miles of a public airport. The Nevada County Airpark is located approximately 2.4 miles away from the proposed Project site. The proposed Project will not expose sensitive receptors to excessive noise levels from airport/aircraft operations. Therefore, impacts are considered to be less than significant.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

f) For a Project within the vicinity of a private airstrip, would the Project expose people residing or working in the Project area to excessive noise levels?

Finding: Less than Significant

See part e above. Impacts are anticipated to be less than significant.

3.12.4 Mitigation

Mitigation Measure NOISE-1: Noise Reduction Measures

The City will incorporate the following BMPs to minimize noise impacts during construction activities:

- Construction will be limited to daytime hours between 7:00 a.m. and 7:00 p.m. on weekdays and possibly Saturdays with the exception of the water pump; which will need to operate 24/7 during the creek restoration activities.
- All construction equipment will be equipped with sound-control devices no less effective than those provided on the original equipment. Equipment will have a muffled exhaust.
- Appropriate additional noise-reducing measures will be implemented, including but not limited to:
 - Changing the location of stationary construction equipment when practical
 - Shutting off idling equipment
 - Notifying residences within 50-100 feet 48 hours in advance of starting construction in an area not previously affected by recent construction activities;
 - Where necessary noise-reducing enclosures or temporary barriers would be used around noise-generating equipment. Where feasible, existing barrier features (terrain, structures) would be used to block sound transmission especially where sensitive receptors are located less than 100 feet from construction activities and construction noise levels are expected to exceed the maximum exterior noise standard.

If construction activities are required outside of the daytime working hours described above, the City will notify residents 48 hours in advance. If after hour construction is required due to an emergency, such as unforeseen dewatering, the City will notify nearby residents immediately.

Mitigation Measure NOISE-1 Implementation

Responsible Party: The City's contractor shall adhere to the construction schedule and noise mitigation measures.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Timing: During all phases of construction.

Monitoring and Reporting: The City shall document all after hour work that generates noise louder than background.

Standard of Success: Minimize neighbor's noise complaints.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.13 POPULATION AND HOUSING

The population and housing section discusses the proposed Project's potential impacts to the population and housing resources within and around the proposed Project area. The regulatory setting describes applicable laws and regulations administered by the local governing body that aim to preserve population and housing resources. The environmental setting provides general information of the population and housing resources in and around the proposed Project area, and finally, the impact analysis evaluates the potential impacts of the proposed Project on those resources.

3.13.1 Regulatory Setting

The proposed Project area is in Nevada County within the City of Nevada City.

3.13.1.1 Nevada County General Plan

The Nevada County General Plan (2014, 2016) includes the following Land Use and Housing Elements goals and policy that are applicable to the proposed Project as it relates to population and housing:

Policy 1.4.1: Maintain a land use pattern based upon criteria that establish the amount of land use types necessary to meet the needs of the population/employment levels, while recognizing the unique character of each *Community Region*.

Goal RC-8.2: Mitigate non-governmental constraints on the maintenance, improvement, and development of housing to the extent possible.

Goal HD-8.1: To provide for a variety of housing types by tenure and price in all residential areas for all income segments, special needs groups, and the County's workforce for both existing Nevada County residents, as well as potential future residents, commensurate with the Regional Housing Need Allocation (RHNA) Plan and the County's quantified objectives.

Goal HD-8.3: Ensure that appropriate types and higher density housing development are directed to Community Regions and Rural Centers.

3.13.1.2 City of Nevada City General Plan

The City of Nevada City General Plan Housing Element (2014) includes the following specific objectives applicable to the proposed Project as it relates to population and housing:

Community Housing Objectives 6.10.1: Provide adequate sites for a variety of housing types for all income groups based on the City's adopted growth rate projection.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Community Housing Objectives 6.10.2: Maintain a low-density "rural residential" character in all areas that are not fully served by public water and sewer, or where that character pre-exists in the neighborhood.

Community Housing Objectives 6.10.3: Encourage development of appropriate housing in areas with adequate capacity in public services and facilities, including the circulation network.

Community Housing Objectives 6.10.5: Accommodate a diversity of housing types and prices within each neighborhood, without creating an adverse effect on the historic and scenic quality of the town.

3.13.2 Environmental Setting

The proposed Project site is located in Nevada City at approximately 2,500 feet in elevation above mean sea level. Nevada City has an estimated population of 3,152 (USCB, 2015). The proposed Project will provide improvements to stream, field, and trail areas of Pioneer Park. It is located in a public park and surrounded by a residential community.

3.13.3 Impact Analysis

The potential impacts to population and housing are qualified in Table 3.13-1 and discussed below.

Table 3.13-1 CEQA Checklist for Assessing Project-Specific Potential Population and Housing Impacts

XIII. POPULATION AND HOUSING: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- a) *Would the Project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?***

Finding: No impact

The proposed Project has no direct growth inducement potential. The proposed Project component is to provide improvements to Little Deer Creek, the Lower Field, and improve and build a new trail in Pioneer Park. The proposed Project does not propose construction or replacement of new homes or businesses, would not affect the current distribution of homes and businesses, and does not propose extension of infrastructure that could support substantial population growth. Therefore, demand for additional housing as a direct result of the proposed Project would be minimal, if any, and no impacts are anticipated from the proposed Project.

- b) *Would the Project displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?***

Finding: No impact

The proposed Project will be located within the boundaries of Pioneer Park and would not displace existing housing. Construction will be temporary and will not displace any individuals living nearby. Thus, no impact would occur.

- c) *Would the Project displace substantial numbers of people necessitating the construction of replacement housing elsewhere?***

Finding: No impact

Implementation of the proposed Project would not result in the displacement of substantial numbers of people necessitating the construction of replacement housing in any other location(s). No impact would result from the proposed Project.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.14 PUBLIC SERVICES

Public services are typically provided by fire districts, park districts, public utility districts, school districts, sewer districts, water districts, and other single purpose districts in addition to those provided by Nevada County and any state and federal agencies.

3.14.1 Regulatory Setting

3.14.1.1 Nevada County General Plan

The Nevada County General Plan (1996, 2008) includes the following specific objectives and policies that are applicable to the proposed Project as it relates to Public Services. The Safety Element of the Nevada County General Plan was reviewed which addresses a wide range of issues related to human health and safety, including emergency preparedness. The Public Facilities and Services Element addresses the changing public facility and service needs of Nevada County and provides guidance for their logical and timely extension to keep pace with County growth. These elements contain the following pertinent policies:

Objective 3.2: Ensure that the capacity, availability, financing, and capability of public services and facilities are sufficient to meet levels of service requirements for development.

Objective 3.4: Develop and operate public facilities in an environmentally sound way.

3.14.1.2 City of Nevada City General Plan

The City of Nevada City General Plan (1986) includes the following specific objective and policies within the City Resources and Public Safety Elements that are applicable to the proposed Project as it relates to Public Services.

Objective: Include consideration of both resident and non-resident users in planning future park needs and funding sources.

Policy: Investigate opportunities for extension of public trails along Deer Creek and Little Deer Creek, especially in connection with features of historic importance, such as the flume at Pine Street Bridge.

Policy: The Nevada City Fire Department, in cooperation with the California Department of Forestry and the relevant Fire Districts, shall maintain high fire protection levels by requiring adequate access and water flow, based on established standards.

3.14.2 Environmental Setting

Fire protection in the Project area is provided by the Nevada City Fire Department (NCFD), and police protection is under the jurisdiction of the Nevada City Police. There are no schools that exist in the proposed Project area. The proposed Project area consists of Pioneer Park lower



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

playing field, Little Deer Creek that runs through the park, and associated parking areas. During construction, the entire area will be fenced and unavailable for public use. There will be no road closures during construction and construction is not anticipated to restrict traffic on local roadways, therefore emergency service access will not be affected.

For additional information regarding the Public Services and Facilities in Nevada County in the proposed Project area refer to Chapter 3, Public Facilities and Services, of the Nevada County General Plan (Nevada County 1996).

Fire Protection

The Nevada City Fire Department (NCFD) is responsible for any fire-related emergencies within the Project area. The closest NCFD station is Nevada City Fire Station 54, located at 201 Providence Mine Road in Nevada City. It is approximately 1.3 miles from the proposed Project site.

Police Protection

The Project area falls under the jurisdiction of the Nevada City Police Department, who is responsible for police protection and public safety within the City limits. The nearest location of law enforcement services provided by the Nevada City Police Department is located at 317 Broad Street in Nevada City.

Schools

There are 12 school districts within Nevada County. The Project area is located in the Nevada City School District and District 1 of the Nevada Joint Union High School District. The nearest schools are Yuba River Charter School, Forest Charter School, Deer Creek Elementary School, Seven Hills Middle School, and Nevada Union High School. The elementary and middle schools are approximately 1.2 miles from the Project site and the high school is approximately 2.8 miles away from the Project site.

Parks

The Project is located at Pioneer Park. There is one additional park in Nevada City (Calanan Park) which consists of seating areas and has relics of Nevada City's mining history. Calanan Park does not have any amenities like sports courts or game areas, a creek, or structures.

The Project would involve construction in Pioneer Park in two phases. While the park resources would be affected by construction, new facilities would not be needed to accommodate recreation. Portions of the park (upper playground, pool, little league field) will still be available for users during construction. The regional area includes many outdoor trails and activities such that new facilities would not be required. The Project construction activities will be temporary and short term and would not require construction of new facilities.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.14.3 Impact Analysis

The potential impacts to public services are qualified in Table 3.14-1 and discussed below.

Table 3.14-1 CEQA Checklist for Assessing Project-Specific Potential Impacts to Public Services

XIV. PUBLIC SERVICES: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

a) Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services: Fire protection? Police protection? Schools? Parks?

Finding: Less than significant

Removal of soil in the park that has high levels of arsenic will improve the park for users. Although the Lower field will be closed to the public during phase II of construction, the rest of the park will remain open. Construction periods will last approximately two months for each phase of construction, turf replacement and restoration for an additional six months.

The proposed Project does not involve construction within the public roadways; however, the proposed Project may temporarily impact traffic around the construction area. Construction



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

vehicles will yield to emergency vehicles as required by law and therefore, not affect service ratios and response times.

Therefore, the proposed Project will not result in the need for additional government facilities. The proposed Project activities will have less than significant impacts on fire protection, police protection, schools, parks, or other public facilities in the proximity of the Project area and impacts are considered less than significant.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.15 RECREATION

The following recreation section evaluates the proposed Project's consistency with and impacts to recreation. The section begins with the regulatory setting discussing the applicable recreation goals, policies, and objectives application to the project area. The environmental setting is discussed including the recreational uses of the Project area and surrounding region. The third section evaluates the potential impacts of the proposed Project looking to both the regulatory and environmental setting to assess the potential for the project to cause a significant impact to recreation.

3.15.1 Regulatory Setting

3.15.1.1 Nevada County General Plan

The Nevada County General Plan sets several goals, policies, and objectives to guide development. The proposed Project will comply with the following goals and objectives of Chapter 5: Recreation and Chapter 3: Public Facilities of the Nevada County General Plan (Nevada County General Plan 1996).

Goal 5.1: Provide a variety of active and passive recreational opportunities.

Objective 5.1: Provide a diverse range of recreational opportunities at a regional, district, community, and neighborhood level.

Objective 3.2: Ensure that the capacity, availability, financing, and capability of public services and facilities are sufficient to meet levels of service requirements for development.

3.15.1.2 Western Nevada County Non-Motorized Recreational Trails Master Plan

The Western Nevada County Non-Motorized Recreational Trails Master Plan goals and policies relative to the proposed Project are as follows:

Goal 1: Provide a wide-range of safe, convenient, and enjoyable recreational trails opportunities for multiple non-motorized users.

Policy 1.4: Encourage the creation of new and maintenance of existing recreational trails and support facilities to serve existing developed areas.

Policy 1.5: Encourage the development of recreational trails that are accessible to physically challenged individuals.

Goal 2: Provide a recreational trail system that connects or provides access to recreational, educational, natural, cultural, and historical resources.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Policy 2.3: Create non-motorized trails that connect to public parklands and other existing or proposed recreational opportunities.

Policy 2.4: Provide a recreational trails system that showcases the unique natural and historical character of Nevada County.

Goal 3: Work with affected private landowners to address concerns and effectively plan for the recreational trails system.

Policy 3.1: Promote recreational trails on existing public lands, public easements, and other public rights-of-way.

Policy 3.5: Design recreational trails to minimize and avoid if possible, bifurcation of private property and to be located within open space parcels, linear parks, or designated no build areas to minimize potential conflicts with adjacent land uses.

Goal 4: Create a recreational trails system that minimizes user conflicts and provides safe and enjoyable experiences.

Policy 4.2: Plan and design each trail segment to meet the needs of the intended user group(s).

Policy 4.4: Encourage connectivity between recreational trails and pathways to create a comprehensive and integrated non-motorized system.

Goal 5: Provide for community and inter-agency involvement to develop and manage the recreational trails system.

Goal 7: Promote the design and development of quality trails in keeping with the rural foothill character of Nevada County.

Policy 7.2: Ensure that trail design is consistent with the character of surrounding lands, the intended and varying needs of user(s) and the expected volume of use.

Policy 7.5: Employ Best Management Practices in trail construction to prevent soil erosion and instability, substantially changing drainage patterns, and negative effects on water features.

Policy 7.6: Ensure that County recreational trails within a City Sphere of Influence are compatible with applicable City design guidelines.

3.15.1.3 Nevada City General Plan

Take steps to ensure acquisition, dedication, or conservation of potential open space preserves, public park sites and trails easements



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- Investigate opportunities for extension of public trails along Deer Creek and Little Deer Creek, especially in connection with features of historic importance, such as the flume at Pine Street Bridge.

3.15.2 Environmental Setting

Nevada County provides a vast array of recreational opportunities, ranging from public parks with recreational facilities to uninhabited forested lands. Public parks and recreational facilities within the County include ski areas and resorts, golf courses, swimming and exercising facilities, and campgrounds. Recreational, non-motorized trails are found throughout the County and provide opportunities for hiking, mountain biking, and horseback riding. Additionally, both the Nevada County Master Bicycle Plan and the Pedestrian Improvement Plan for Nevada County aim to improve pedestrian and bicycle travel within urbanized areas of the County.

The proposed Project site is located in Nevada County, within the incorporated area of Nevada City. The Project site known as Pioneer Park is owned and operated by the City of Nevada City and was established (construction began) in 1935. In the late 1940's, the lower field of Pioneer Park was created. Little Deer Creek was diverted around the field to make an open space for playing baseball. The park playground was originally located where the upper Little League Field now sits. Between 1968 and 1974 the playground was moved to its current location and the upper field was constructed with funds from community donations. The reason for this move of the field was because the lower field was too soggy to play on (Pioneer Park Master Plan 2012).

Drainage of the lower field has been an issue since its installation. The proposed Project aims to reduce flooding impacts and re-grade the lower field to provide for year round accessibility and use of the park. The proposed Project also includes installation of a "roll and stroll" bicycling and walking path that skirts around the perimeter of the lower playing field (see Project description for design details). This path will be ADA (American's with Disabilities Act) accessible compliant and will be entirely within the park boundaries.

In 2006, Nevada City was awarded a Brownfield's Assessment Grant. Sierra Streams Institute completed the assessment work required by the grant, including soil samples from Pioneer Park field. The results of those samples showed that there are higher than normal levels of arsenic throughout the grassy field (Pioneer Park Master Plan 2012).

Construction of the proposed Project elements will create temporary disruption of park accessibility to the lower playing field for users. Construction activities in the field are scheduled to last for two months during two separate years. The field grading and improvements will be two months in duration during 2017, with an additional six months to allow for turf regrowth, and the trail construction will be two months in duration during 2018.

3.15.3 Impact Analysis

Impacts to recreation are qualified in Table 3.15-1 and discussed below.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Table 3.15-1 CEQA Checklist for Assessing Project-Specific Potential Impacts to Recreation

XV. RECREATION:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a) *Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?*

Finding: Less than Significant

The proposed Project is located at an established recreation facility, Pioneer Park. The Project design accommodates existing and projected levels of use of the park. The improvements made to the park will not increase overall use of the facilities but rather provide better year round access to all of Pioneer Park's amenities by widening the stream channel, improving the drainage of the lower field, and constructing a perimeter trail. Therefore, impacts would be considered less than significant.

b) *Does the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?*

Finding: Less than significant with mitigation incorporated

The proposed Project involves improvements to recreational facilities. The trail and re-grading of the field will require the removal of arsenic contaminated soil from the Project site. Soil from the turf field will be removed and disposed of off-site because of high levels of arsenic contamination present in the soil. The presence of arsenic in the soil will require Best Management Practices to prevent soil instability and minimize negative effects on the environment. A Mitigation measure AIR-1 would be implemented to minimize the potential of arsenic becoming air-borne from soil movement during construction. Additionally, the removal of riparian vegetation may be necessary during trail construction along the north bank of Deer Creek. Mitigation Measure BIO-2 would be implemented to protect and restore and impacted riparian plants and habitat.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Once constructed, the Project as a whole would have a positive impact on the physical environment. The proposed Project would remove arsenic contaminated soils thereby reducing the risk of exposure for those using the park and within Deer Creek. The Project would also reduce the likelihood of flooding in the Lower Field and would generally enhance the stream habitat within Deer Creek. Therefore, the impacts to the environment are less than significant with mitigation incorporated.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.16 TRANSPORTATION AND TRAFFIC

The transportation and traffic section discusses the potential impacts of the proposed Project to transportation and traffic within and around the proposed Project area. The regulatory setting describes applicable transportation and traffic regulations. The environmental setting provides general information of the transportation and traffic in and around the proposed Project area, and finally, the impact analysis evaluates the potential impacts of the proposed Project on transportation and traffic.

3.16.1 Regulatory Setting

3.16.1.1 Local Regulations

The Nevada County General Plan, Nevada County Regional Transportation Plan, Western Nevada County Non-Motorized Recreational Trails Master Plan, and Nevada City General Plan, set the following goals, policies, and objectives relative to the proposed Project:

3.16.1.1.1 Nevada County General Plan

Goal MV-4.3: Provide for alternative routes for efficient service and for emergency access.

Policy EP-4.4.1: The County shall require environmentally sound practices for transportation facility construction and maintenance. New roads or improvements to the existing road system and all trails and pathways shall be located, constructed and maintained in a manner compatible with the environment.

Objective 5.5: Coordinate future park and trail planning with other responsible agencies.

Policy 5.15: The County shall provide for the inclusion of bikeways, walkways, and non-motorized trails in appropriate locations within parks. Where feasible, park sites shall be integrated with the County Bicycle Master Plan and with the Non-Motorized Multi-Purpose Trails Master Plan.

3.16.1.1.2 Nevada County Regional Transportation Plan

Goal 1.0: Provide for the safe and efficient movement of all people, goods, services, and information.

Goal 2.0: Reduce adverse impacts on the natural, social, cultural, and historical environment and the quality of life.

3.16.1.1.3 Western Nevada County Non-Motorized Recreational Trails Master Plan

Goal 1: Provide a wide-range of safe, convenient, and enjoyable recreational trail opportunities for multiple non-motorized users.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Policy 1.2: Allow single, shared, and multiple use (pedestrian, equestrian, and mountain bicycling) trails, where appropriate, with consideration for user safety, environmental and physical constraints, and land use compatibility.

Policy 1.3: Support a broad range of enjoyable experiences by integrating a variety of trail settings in the regional system.

Policy 1.4: Encourage the creation of new and maintenance of existing recreational trails and support facilities to serve existing developed areas.

Policy 1.5: Encourage the development of recreational trails that are accessible to physically challenged individuals.

Goal2: Provide a recreational trail system that connects or provides access to recreational, educational, natural, cultural, and historical resources.

Policy2.1: Provide public access to Nevada County's significant natural, cultural, historical, and scenic heritage, while protecting these resources.

Policy2.3: Create non-motorized trails that connect to public park lands and other existing or proposed recreational opportunities.

Policy 2.4: Provide a recreational trails system that showcases the unique natural and historical character of Nevada County.

Goal 3: Work with affected private landowners to address concerns and effectively plan for the recreational trails system.

Policy 3.1: Promote recreational trails on existing public lands, public easements, and other public rights-of-way.

Policy 3.5: Design recreational trails to minimize and avoid if possible, bifurcation of private property and to be located within open space parcels, linear parks, or designated no build areas to minimize potential conflicts with adjacent land uses.

Policy 3.7: Plan trail locations to avoid or minimize impacts to sensitive resources, including, but not limited to, biological, archeological, agricultural, and cultural resources.

Policy 3.8: Trail development shall be compliant with all applicable land use and development regulations and the California Environmental Quality Act (CEQA) Guidelines.

Policy 3.9: Public trails shall not be available for public use until land entitlement, funding, a responsible entity, and a trail-specific operations and management plan are established and improvements are made for public safety and enjoyment.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Goal 4: Create a recreational trails system that minimizes user conflicts and provides safe and enjoyable experiences.

Policy 4.1: Provide highly visible, recognizable, and safe trailheads or access points into the trail system.

Policy 4.2: Plan and design each trail segment to meet the needs of the intended user group(s).

Policy 4.3: Require signage to minimize conflicts with vehicles and other trail users and to provide user information for the trails system.

Policy 4.4: Encourage connectivity between recreational trails and pathways to create a comprehensive and integrated non-motorized system.

Goal 5: Provide for community and inter-agency involvement to develop and manage the recreational trails system.

Policy 5.1: Coordinate trail planning with other responsible agencies (GP Objective 5.5).

Policy 5.2: Partner with other agencies and organizations to prioritize trail segments for implementation, enhance grant opportunities for regionally significant improvement projects, and to support trail construction and management activities.

Goal 7: Promote the design and development of quality trails in keeping with the rural foothill character of Nevada County.

Policy 7.2: Ensure that trail design is consistent with the character of surrounding lands, the intended and varying needs of user(s), and the expected volume of use.

Policy 7.3: Encourage trail construction that is of the highest quality design, yet remains cost-effective, functional, low impact, and easily maintained.

Policy 7.5: Employ Best Management Practices in trail construction to prevent soil erosion and instability, substantially changing drainage patterns, and negative affects on water features.

Policy 7.6: Ensure that County recreational trails within a City Sphere of Influence are compatible with applicable City design guidelines.

3.16.1.1.4 Nevada City General Plan

Regional Circulation Objective: Cooperate with the county in fulfilling the aims of the current Nevada County Regional Transportation Plan.

Regional Circulation Policy: Use the county Regional Transportation Plan as the basis for the Nevada City Circulation Element, subject to adoption of the current version by the City Council.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Local Circulation Policy: Maintain reasonable traffic levels on local streets to protect residents from the harmful effects of noise, fumes, and safety hazards.

Local Circulation Policy: Encourage the construction of pedestrian and bicycle pathways where appropriate, to provide safe alternatives to vehicular travel.

3.16.2 Environmental Setting

The proposed Project is located in western Nevada County and is located at Pioneer Park in Nevada City, just east of State Route 49/20. Main highways in the region include Interstate 80, State Route 49, State Route 20, and Highway 174. According to the Nevada City General Plan, the street system is composed of a combination of roadways, including:

- **Freeways and Expressways:** Roads serving high-speed traffic with no at-grade crossings to interrupt flow.
- **Principal Arterials:** Major streets connecting freeways and other major traffic carriers to local and collector streets. Implies controlled intersections and joint rather than individual access to properties.
- **Minor Arterials:** Secondary arterial, which may provide direct access to individual properties.
- **Local Streets:** Streets providing direct access to properties which should be designed to discourage through traffic.

The main roads on which minimal proposed Project construction equipment and truck trips would occur are State Route 49/20 near Grass Valley and Nevada City, Broad Street, Boulder Street, Nimrod Street, Park Avenue, and Max Solaro Drive. According to the Nevada County General Plan, State Route 49/20 is considered a "principal arterial" road. The other roads are within Nevada City limits and are considered principal, minor, and local streets.

The primary staging area is proposed in the existing 0.15 acre West Parking Lot. This area is located in the northwest portion of Pioneer Park, near the tennis courts. A secondary staging area is proposed at the existing East Parking Lot. This staging site has a total area of 0.40 acre, and is located east of the proposed stream restoration area. Staging areas would be utilized for site access, short duration equipment storage, and/or vehicle parking during the field regrading phase of the proposed Project.

The contractor staging and access would be coordinated with City Parks and Recreation Department (P&R) to allow for maximum public use of Pioneer Park facilities during active construction. Temporary chain-link fencing would be placed around the entire construction and staging areas and maintained throughout the construction period. Access would be restricted to construction and engineering personnel. Signs would be posted to inform the public and



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

maintain public safety. At least two of the four parking lots at Pioneer Park, as well as side street parking, would be open for public parking at all times during construction.

Proposed Project activities would occur between 7 a.m. to 7 p.m. on weekdays. Access to the picnic area to the south of the East Parking Lot would be provided during weekends. Construction is not anticipated to restrict traffic on local roadways.

3.16.3 Impact Analysis

Potential impacts to transportation and traffic are qualified in Table 3.16-1 and discussed below.

Table 3.16-1 CEQA Checklist for Assessing Project-Specific Potential Impacts to Transportation and Traffic

XVI. TRANSPORTATION / TRAFFIC: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- a) *Would the Project conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?***

Finding: Less than significant

The proposed Project would use roadway or roadway right-of-way for access to and from the proposed Project area (Park Avenue, Nimrod Street, Max Solaro Drive, and to other connecting roadways and arterials). There would be a temporary increase of Project traffic, including construction employees and vehicles, to and from the proposed Project site. The proposed Project activities would be temporary and would not be expected to result in a substantial increase in traffic relative to the capacity of the street system. Additionally, operation of the proposed Project would not require additional staffing or generate any addition trips to and from the proposed Project sites and would not conflict with established plans, policies, or standards related to motorized or non-motorized travel. Therefore, the impact would be less than significant.

- b) *Would the Project conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?***

Finding: No impact

The Nevada County General Plan establishes Level of Service standards to evaluate traffic and congestion, however, the plan recognizes the difficult nature of assessing LOS in rural and urbanized areas. The local roadways in the proposed Project area are in an urbanized part of Nevada City. The temporary increase in proposed Project traffic is not expected to substantially affect load or capacity of the local road system. This minor temporary increase does not conflict with the congestion management program or other standards in the Nevada County or Nevada City General Plans.

After construction of the proposed Project is complete, traffic to and from the proposed Project facilities would return to existing conditions and therefore would not create an increase in traffic or conflict with established plans, policies, or standards related to motorized or non-motorized travel. Therefore, the proposed Project would not conflict with an applicable congestion management program and no impact would occur.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- c) *Would the Project result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?***

Finding: No impact

The Federal Aviation Administration (FAA) has specific rules and regulations that govern airports and require an air space permit for equipment within a certain distance of an airport over a certain height. The closest airport to the proposed Project is the Nevada County Airport, located approximately 2.4 direct miles from the proposed Project. The proposed Project would not change airport operations or traffic patterns as none of the proposed Project construction equipment or proposed Project components would be tall enough to interfere with air traffic patterns or require an air space permit. Therefore, flight patterns in the proposed Project vicinity would not be affected and no impacts would occur.

- d) *Would the Project substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?***

Finding: Less than significant

The proposed Project does not include any new design features on Project roadways, and therefore, would not result in any associated hazards. Project construction would require the transportation of machinery with haul trucks, dump trucks, and light trucks on the roads described above. It is estimated that approximately 150 truck trips would be needed to haul contaminated soil and concrete and approximately 115 truck trips to import fill for the creek restoration, field grading, and trail improvements. The truck trips would be temporary and would only occur during construction activities. Additionally, these additional vehicle trips are not anticipated to affect the LOS standards on the roadways or significantly increase local traffic congestion. The proposed Project would take place at existing facilities and operations would remain similar to existing conditions and would not introduce any incompatible uses to local or regional roadways. The proposed Project would not substantially increase hazards to a design feature since these minor trips would not constitute substantial changes. Therefore, impacts are considered less than significant.

- e) *Would the Project result in inadequate emergency access?***

Finding: Less than significant

The proposed Project would not change access points to the proposed Project area. During proposed Project implementation, the movement of construction equipment along Park Avenue, Nimrod Street, and Max Solaro Drive would be minimal and would not result in inadequate emergency access. Construction traffic and activities would not significantly cause inadequate emergency access since construction activities would take place on existing secure park facilities. Since there would be no change in operational conditions of the proposed Project facilities, there would be no operational impact to emergency access as a result of the proposed Project. Therefore, impacts to emergency access are considered less than significant.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

f) *Would the Project conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?*

Finding: No impact

Nevada City's plans and policies governing alternative transportation are generally outlined in the Nevada City and Nevada County General Plans and outlined in detail in the Nevada County Regional Transportation Plan and Western Nevada County Non-Motorized Recreational Trails Master Plan. The proposed Project would not involve a change in land use or negatively affect transportation policies including any policies, plans, or programs supporting alternative transportation since the proposed Project supports the above adopted policies and plans with the addition of a pedestrian trail. Additionally, it would not add residences or other land uses that would generate a need for alternative transportation. Therefore, no impacts would occur.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.17 UTILITIES AND SERVICE SYSTEMS

The utilities and service systems section discusses the potential impacts of the proposed Project to utilities and service systems within the Project area and region.

3.17.1 Regulatory Setting

3.17.1.1 Nevada County General Plan

The proposed Project is located in Nevada County and would therefore be governed by the County's General Plan. The Safety Element of the Nevada County General Plan was reviewed which addresses a wide range of issues related to human health and safety, including emergency preparedness. The Public Facilities and Service Element addresses the changing Public Facility and Service needs of Nevada County and provides guidance for their logical and timely extension to keep pace with County growth. These elements contain the following pertinent objectives:

Objective 3.2: Ensure that the capacity, availability, financing, and capability of public services and facilities are sufficient to meet levels of service requirements for development.

Objective 3.4: Develop and operate public facilities in an environmentally sound way.

3.17.2 Environmental Setting

The City of Nevada City and special districts provide many services to residents and businesses such as water, wastewater, storm drainage, solid waste removal, utilities, and communications. The City provides potable water to users within the City boundary. Domestic, industrial, and commercial water in western Nevada County is primarily supplied by Nevada Irrigation District (NID), and by the City of Grass Valley and the City of Nevada City within the respective city limits. Nevada City sources its water from Little Deer Creek upstream of the Project Site and supplements its water supply with water from NID in months of high usage (June - September) (City of Nevada City 2016). Solid waste collection is provided by Waste Management and deposited at the McCourtney Road Transfer Station, approximately 8.4 miles from the Project site. Pacific Gas and Electric (PG&E) provides both gas and electric services to the City.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.17.3 Impact Analysis

The potential impacts to utilities and service systems are qualified in Table 3.17-1 and discussed below.

Table 3.17-1 CEQA Checklist for Assessing Project-Specific Potential Impacts to Utilities and Public Services

XVII. UTILITIES AND SERVICE SYSTEMS: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's Projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

a) *Would the Project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?*

Finding: No impact

The proposed Project involves stream improvements, playing field improvements, and construction of a trail. The Project would not result in the increased generation of wastewater or exceed treatment requirements. Therefore, the Project would result in no impacts.

b) *Would the Project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

Finding: No impact

The proposed Project would not require a permanent connection to water or wastewater facilities. Water and wastewater facilities required during construction would be temporary and would consist of water trucked onsite as needed for construction (existing park toilet facilities will accommodate construction personnel). As such, the proposed Project would not require the construction of new water or wastewater treatment facilities. Therefore, the proposed Project would have no impact.

c) *Would the Project require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?*

Finding: Less than significant

As mentioned in the Project Description, limited grading and/or soil berm construction will be performed along upslope areas (i.e., southern vicinity) of the Lower Field to improve site drainage. Runoff will be directed into infiltration trenches extending along portions of the field perimeter. Upon completion of the Project, any disturbed areas shall be restored to pre-existing conditions to the extent feasible and will not alter existing ground surface conditions. Therefore, the Project impacts are considered less than significant.

d) *Would the Project have sufficient water supplies available to serve the Project from existing entitlements and resources, or are new or expanded entitlements needed?*

Finding: No impact

The proposed Project will not require any additional water resources. Treated water will continue to be provided by the City of Nevada City. Therefore, no impact would occur.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

- e) Would the Project result in a determination by the wastewater treatment provider which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?**

Finding: No impact

The proposed Project will have no effect on the capacity of the existing wastewater treatment facility. Therefore, no impact would result.

- f) Would the Project be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?**

Finding: Less than significant

As outlined in the Project Description, during construction there will be some associated waste as a result of the proposed Project (once construction is completed operation will have no increase in waste generation). Excavated soil from the stream channel and playing field will be disposed of offsite. The Recology Landfill off of Ostram Road in Wheatland, CA is the nearest facility to receive arsenic contaminated soils. Solid waste materials and soil will be transferred to the appropriate solid waste handling facility. The McCourtney Road Transfer Station and Recycling Center is the closest solid waste disposal facility. The existing landfills have ample capacity to accommodate the temporary increase.

The proposed Project may minimally and temporarily increase solid waste production over the current levels and there are facilities available to accept solid waste materials generated by the construction of the Project. Impacts from solid waste generation are considered less than significant.

- g) Would the Project comply with federal, state, and local statutes and regulations related to solid waste?**

Finding: Less than significant

The California Integrated Waste Management (CIWM) Act requires every county to adopt an IWM Program that describes county objectives, policies, and programs relative to waste disposal, management, source reduction, and recycling. Nevada County has implemented a Green Procurement and Sustainable Practices policy that is consistent with the CIWM Act. The removal of solid waste due to construction activities will comply with all federal, state, and local statutes and regulations. Impacts to solid waste statutes and regulations would be less than significant.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

3.18 MANDATORY FINDINGS OF SIGNIFICANCE

3.18.1 Impact Analysis

The mandatory findings of significance include potential impacts to sensitive resources, potential cumulative impacts, potential impacts to human beings, and potential global warming impacts. These are qualified in Table 3.18-1 and discussed below.

Table 3.18-1 CEQA Checklist for Assessing Project-Specific Mandatory Findings of Significance

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE: Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less than Significant Impact	No Impact
a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the Project have impacts that are individually limited, but cumulative considerable? ("Cumulative considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the Project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

Biological and Cultural Impacts (a)

- a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

As disclosed in Section 3.4, Biological Resources, of this document, the proposed Project area does not provide suitable habitat conditions for special-status species with a potential to occur in the region, the valley elderberry longhorn beetle, California black rail, California red-legged frog, foothill yellow-legged frog, coast horned lizards or various special-status plants. As a result, no impacts, both direct and indirect, are expected to occur to these species. Additionally, mitigation measures such as avoidance of nesting birds and roosting bats, protection and restoration of riparian plants and habitat, and protection of oaks, are included to ensure all potential impacts are mitigated to less than significant levels (Mitigation Measures BIO-1 through 3).

Expected downstream effects on water quality due to the proposed Project include a long-term benefit to fish species due to the Project's estimated reduction of the amount of arsenic currently entering Little Deer Creek from the Pioneer Park field. Potential short-term construction-related impacts to water quality would be avoided or minimized and/or mitigated through the use of proper erosion and sediment control BMPs as per the proposed Project's Stormwater Pollution Prevention Plan (SWPPP) and Mitigation Measures HYD-1 through 4.

The proposed Project will not substantially reduce fish habitat or wildlife species density. The Project phases will not substantially reduce fish habitat in Little Deer Creek or within the Deer Creek Watershed, rather its goal is to restore sections of the creek to improve habitat quality. In addition, the Project will not substantially reduce wildlife habitat or species, again to the long term goals of improving habitat quality. Sediment control measures will be taken to minimize impacts to Little Deer Creek.

The proposed Project will not cause a fish or wildlife species population to drop below self-sustaining levels, or threaten to eliminate a rare or endangered plant or animal because the Project is not expected to significantly impact any locally, state, or federally rare and endangered species. Therefore, the Project will not cause a population to drop below self-sustaining levels.

As indicated in Section 3.5, Cultural Resources, of this document, a full accounting of all potential cultural resources located within the Project area was achieved through a CHRIS records search, AB 52 consultations, and cultural resources surveys.

The UAIC sent a letter on September 14, 2016 requesting to consult on the proposed Project. In the letter, the UAIC recommended that a tribal monitor be present during any Project ground



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

disturbing activities as the UAIC's preservation committee identified cultural resources in and around the project area. In response to the UAIC's letter, the City emailed the UAIC on October 24, 2016 and proposed a discussion of the UAIC's recommended tribal monitoring during project construction and a site visit with UAIC representatives. The City also called the UAIC representative on October 26th and left a voicemail. On November 1, 2016, the City sent a follow up email to the UAIC reviewing the UAIC's requests and asking for a response. No response from the UAIC has been received to date. While no specific cultural resources were identified by the UAIC to date, the City will work with the UAIC to avoid impacts to any cultural resources within the proposed Project.

There is one historical resource within the Project area, Pioneer Park. Pioneer Park is recommended as eligible for the CRHR under Criterion 1, for the Park's association with significant events in state and local history. While the proposed Project is within Pioneer Park, which is recommended as eligible to the CRHR, the proposed Project would not impact this potentially eligible resource. No other historic, archaeological, or tribal cultural resources were identified within the proposed Project area. The possibility for encountering buried cultural resources or human remains during project construction can never be fully discounted, therefore, Mitigation Measures CULTURAL-1 and CULTURAL-2 will be implemented to reduce potential impacts to less than significant levels.

Cumulative impacts (b)

b) Does the Project have impacts that are individually limited, but cumulative considerable? ("Cumulative considerable" means that the incremental effects of a Project are considerable when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects)?

According to the City of Nevada City Planning Department website (City of Nevada City 2016) there are two tentative subdivisions planned, in Nevada City. While the timing of both subdivisions are unknown, construction of the proposed Project in conjunction with these subdivisions is unlikely and would not cause a cumulatively considerable impact to traffic, noise, dust or other resources when considered in conjunction with the proposed Project.

According to Nevada County (Nevada County 2016), two projects are planned within three miles of the proposed Project. These projects include the Byers Warehouse Development Permit in Grass Valley and the Recom Steel project. Both projects included the proposed development of an industrial building. While the timing of both projects within the County are unknown, construction of the proposed Project in conjunction with these industrial buildings is unlikely and would not cause a cumulatively considerable impact to traffic, noise, dust or other resources when considered in conjunction with the proposed Project. No current or future Caltrans Projects for Nevada County are listed within three miles of the Project Area.

The proposed Project will not contribute to significant cumulative indirect growth impacts in the region as the Project is a Restoration and Flood Mitigation Project located within Pioneer Park. It



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Environmental Impacts
November 7, 2016

does not entail removing an existing barrier to growth. Therefore, the project is not considered growth inducing.

Effects on Human Beings (c)

c) Does the Project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

As discussed in the various sections throughout this IS/MND, the proposed Project would not include uses that would result in substantial adverse effects on human beings. Potential impacts to human beings include increase in ambient noises during construction and increases in particulate matter (dust) in the air during construction. Dust is of particular concern during the proposed Project due to elevated arsenic levels found in the soil throughout the lower field and the sediments in Little Deer Creek and the lower field. Both impacts are considered temporary and will be mitigated through incorporation of mitigation measures. Specifically, a mitigation measure with noise reduction measures will be implemented to mitigate disturbance from temporary increases in noise during construction. A dust and emissions control plan and BMPs and clear construction equipment strategies will be implemented to reduce temporary impacts to air quality. These mitigation measures will ensure all potential adverse effects on human beings are reduced to less than significant levels. The monitoring, mitigation and reporting program shall be followed to ensure compliance with said measures.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

4.0 REFERENCES

- Bat Conservation International. 2008. Western Red Bat.
<http://www.batcon.org/SPprofiles/detail.asp?articleID=101>.
- Beals, Ralph Leon. 1933. Ethnology of the Nisenan. University of California Publications in American Archaeology and Ethnology 31 (6):335-414.
- Beardsley, R. K. 1948. Cultural Sequences in Central California Archaeology. American Antiquity 14(1): 1-28.
- Beardsley, R. K. 1954. Temporal and Areal Relationships in Central California Archaeology. University of California Archaeological Survey Reports 24, 25. Berkeley, California.
- Beck, J. L. 1971. A Chipped Stone Crescent from Tracy Lake, California. The Masterkey 45(4): 154-156.
- Beck, Warren and Ynez D. Haase. 1974. Historical Atlas of California. University of Oklahoma Press, Norman, Oklahoma.
- Bedwell, S. 1973. Fort Rock Basin: Prehistory and Environment. University of Oregon Books, Eugene, Oregon.
- Bell, A. 2012. Development of an Index of Biotic Integrity (IBI) for Deer Creek, Nevada County, California: Family-level IBI for Citizen-science Bioassessment.
- Bennyhoff, J. A. 1994. Central California Augustine: Implications for Northern California Archaeology. In *Toward a New Taxonomic Framework for Central California Archaeology: Essays by James A. Bennyhoff and David A. Fredrickson*, edited by R. E. Hughes, pp. 65-74. Contributions of the University of California Archaeological Research Facility, No. 52, Berkeley.
- Bent, A. C. 1939. Life Histories of North American Woodpeckers. U.S. National Museum Bulletin 174. 334 pp. As cited in Zeiner et al. 1988-1990.
- Borisenko, A. and M. P. Hayes. 1999. Status of the Foothill Yellow-legged Frog (*Rana boylei*) in Oregon. Final report prepared for The Nature Conservancy under contract to the U. S. Fish and Wildlife Service: Washington, DC.
- Boulton, A.J. 1999. An overview of river health assessment: philosophies, practice, problems, and prognosis. *Freshwater Biology*, 41, 469-479.
- Burgess, M.S., M. Burgess, and M.W. Burgess. 2007. California ranchos : patented private land grants listed by county. Borgo Press



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

Bryan A.L. 1981. A Response to McGuire's Cautionary Tale about the Association of Man and Extinct Fauna in Great Basin Cave Sites. *Quaternary Research* 16(117-121).

Cal Fire. 2012. Fire Hazard Severity Zones Maps.
http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones.php.

Calflora. 2016. Information on California Plant for Education, Research and Conservation. The Calflora Online Database. Berkeley, California. Accessed June 5, 2016.
<<http://www.calflora.org>>.

California Air Resources Board. 2016. AB 32 Scoping Plan.
<https://www.arb.ca.gov/cc/scopingplan/scopingplan.htm>

California Air Resources Board. 2015. 2020 Business-as-Usual (BAU) Emissions Projection 2014 Edition <https://www.arb.ca.gov/cc/inventory/data/bau.htm>

California Air Resources Board. 2016. Air Quality Standards and Area Designations. Accessed September 8, 2016 at <https://www.arb.ca.gov/desig/desig.htm>.

California Air Resources Board. 2011. California Air Basins and Air Quality.
<http://www.arb.ca.gov/knowzone/basin/basin.swf>.

California Department of Conservation. 2007. California Geological Survey. Landslides.
<<http://www.quake.ca.gov/gmaps/WH/landslidemaps.htm>>.

California Department of Conservation. 2010. California Geological Survey (CGS). Alquist-Priolo Earthquake Fault Zoning map.
http://www.conservation.ca.gov/cgs/geologic_hazards/earthquakes/Pages/Index.aspx.

California Department of Conservation. 2010. Geologic Map of California.
<http://maps.conservation.ca.gov/cgs/gmc/>.

California Department of Conservation. California Geological Survey (CGS). 2002. Geology and soils. <http://www.consrv.ca.gov/CGS/Pages/Index.aspx>.

California Department of Conservation. California Geological Survey (CGS) 2016. Probabilistic Seismic Hazards Assessment - Peak Ground Acceleration (accessed August 18, 2016)
<http://www.conservation.ca.gov/cgs/rghm/psha/Pages/pga.aspx>

California Department of Conservation. Farmland Mapping and Monitoring Program (FMMP). 2016. Nevada County Important Farmland.
<<ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2010/nev10.pdf>>.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

California Department of Fish and Wildlife (CDFW). 2016a. California Endangered Species Act (CESA). California Department of Fish and Wildlife. Sacramento, California. Accessed September 8, 2016. <<https://www.wildlife.ca.gov/Conservation/CESA>>.

California Department of Fish and Wildlife (CDFW). 2016b. California Laws Protecting Native Plants. California Department of Fish and Wildlife. Sacramento, California. Accessed September 8, 2016. <<https://www.wildlife.ca.gov/Conservation/Plants/Laws>>.

California Department of Fish and Wildlife (CDFW). 2016c. California Environmental Quality Act (CEQA). California Department of Fish and Wildlife. Sacramento, California. Accessed September 8, 2016. <<https://www.wildlife.ca.gov/Conservation/CEQA/Purpose>>.

California Department of Fish and Wildlife (CDFW). 2016d. Lake and Streambed Alteration Program. California Department of Fish and Wildlife. Sacramento, California. Accessed June 5, 2016. <<https://www.wildlife.ca.gov/Conservation/LSA>>.

California Department of Fish and Wildlife (CDFW). 2016e. California Natural Diversity Database. California Department of Fish and Wildlife. Sacramento, California. Accessed June 5, 2016. <<https://www.dfg.ca.gov/biogeodata/cnddb/mapsanddata.asp>>.

California Department of Transportation (Caltrans). 2004. Transportation-and Construction-Induced Vibration Guidance Manual. <<http://www.dot.ca.gov/hq/env/noise/pub/vibrationmanFINAL.pdf>>. Accessed September 2016.

California Department of Transportation (Caltrans). 2013. Technical Noise Supplement to the Traffic Noise Analysis Protocol. <http://www.dot.ca.gov/hq/env/noise/pub/TeNS_Sept_2013B.pdf>. Accessed September 2016.

California Department of Transportation. 2016. California Scenic Highway Mapping System http://www.dot.ca.gov/hq/LandArch/scenic_highways/scenic_hwy.htm.

Caltrans & JRP Historical Consulting Services. 2000. Water Conveyance Systems in California. On file, Caltrans, Sacramento, CA.

California Department of Toxic Substances Control (DTSC). 2016. <http://www.dtsc.ca.gov/>.

California Department of Water Resources. 1993. Water Facts. <http://www.water.ca.gov/waterconditions/drought/docs/water_facts_6.pdf>.

California Department of Water Resources. 2014. Groundwater Information Center. <<http://www.water.ca.gov/groundwater/>>.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

California Emissions Estimator Model. 2013. South Coast Air Quality Management District
Developed by ENVIRON International Corporation in collaboration with SCAQMD and
other California Air Districts.

California Geological Survey (CGS). 2002. Geology and soils. Accessed April 2016

California Historical Resources Information System. 2016. North Central Information Center:
Records Search for the City of Nevada City Little Deer Creek Restoration and Flood
Mitigation Project NCIC File No. NEV-16-29.

California Herps. 2016. A Guide to the Amphibians and Reptiles of California. Available:
<<http://www.californiaherps.com/>>.

California Invasive Plant Council (Cal-IPC). 2016. Plant Inventory and Assessment. Accessed June
5, 2016. <<http://www.cal-ipc.org/paf/site/paf/417>>.

City of Nevada City. 2012. Pioneer Park Master Plan.
<http://www.nevadacityca.gov/files/documents/PPMasterPlan1317035223020416PM.pdf>.

City of Nevada City. 1986. General Plan.
<http://www.nevadacityca.gov/files/documents/GeneralPlan1313015909011116PM.pdf>

California Legislative Information (CLI). 2016a. Public Resources Code – PRC. Official California
Legislative Information.
<<http://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=PRC&tocTitle=+Public+Resources+Code+-+PRC>>. Accessed September 2016.

California Legislative Information (CLI). 2016b. Fish and Game Code Section 3500-3864. Official
California Legislative Information.
<http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=FGC&division=4.&title=&part=2.&chapter=&article=>>. Accessed August 2016.

California Native Plant Society (CNPS). 2016 Rare and Endangered Plant Inventory.
<<http://www.rareplants.cnps.org/>> Accessed June 5, 2016

California Natural Diversity Data Base (CNDDDB) <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

California Natural Resources Agency (CNRA). 2009. CEQA: The California Environmental Quality
Act. [online application]. California Environmental Resources Evaluation System, California
Natural Resources Agency. California. <<http://ceres.ca.gov/ceqa/>>.

Chartkoff, J. L. and K. K. Chartkoff. 1984. The Archaeology of California. Stanford University Press,
Palo Alto, California.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

Clark, William B. 1970. Gold Districts of California. California Division of Mines, Bulletin 193. San Francisco, California.

The Cooperative Soil Survey. 2014. California Soil Series Data. <<http://soils.missouri.edu/soilseries.asp?x=A&sort=Series&st=CA>>.

Davis, E.L. 1978. The Ancient Californians: Rancholabrean Hunters of the Mojave Lakes Country. Natural History Museum of Los Angeles County, Science Series 29, Los Angeles.

Davis, E. L. and R. Shulter, Jr. 1969. Recent Discoveries of Fluted Points in California and Nevada. Nevada State Museum Anthropological Papers 14: 154-169.

eBird. 2016. eBird: An online database of bird distribution and abundance [web application]. eBird, Ithaca, New York. Accessed March 2016. <<http://www.ebird.org>>.

Evans, E., Thorp, R, Jepsen, S., and S. Hoffman Black. 2008. Status Review of Three Formerly Common Species of Bumble Bee in the Subgenus *Bombus*: *Bombus affinis* (the rusty patched bumble bee), *B. terricola* (the yellowbanded bumble bee), and *B. occidentalis* (the western bumble bee). As cited in Hatfield et al. 2015.

Faye, P. L. 1923. "[Untitled]." In *American Anthropologist*, 25 , no. 3: 421--422. American Anthropological Association.

Federal Emergency Management Agency (FEMA). 2010. Flood Map Service Center. <<https://msc.fema.gov/portal/search>>.

Federal Highway Administration (FHWA). 2006. Construction Noise Handbook. <http://www.fhwa.dot.gov/environment/noise/construction_noise/handbook/>.

Federal Highway Administration. 2011. Highway Traffic Noise. Website: http://www.fhwa.dot.gov/environment/noise/noise_barriers/design_construction/keepdown.cfm.

Fellers, G. M., and P. M. Kleeman. 2007. California Red-Legged Frog (*Rana draytonii*) Movement and Habitat Use: Implications for Conservation. *Journal of Herpetology* 41 (2) 276-286.

Fredrickson, D. 1974. Cultural Diversity in Early Central California: A View from the North Coast Ranges. *Journal of California Anthropology* 1 (1): 41-53.

Gifford. 1927. Gifford, Edward Winslow. 1927. "Southern Maidu Religious Ceremonies." In *American Anthropologist*, 29 , no. 3: 214--257. American Anthropological Association.

City of Grass Valley. 1998. City of Grass Valley General Plan Background Report, Chapter 8: Transportation/Circulation.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

- Gudde, Erwin G. 1998. California Place Names: The Origin and Etymology of Current Geographical Names. University of California Press. Berkeley, California.
- Harrington, M. 1948. An Ancient Site at Borax Lake, California. Southwest Museum Papers 16, Los Angeles.
- Hatfield, R., S. Jepsen, R. Thorp, L. Richardson, S. Colla and S. Foltz Jordan. 2014. *Bombus occidentalis*. The IUCN Red List of Threatened Species 2015: e.T44937492A46440201. <<http://dx.doi.org/10.2305/IUCN.UK.2015-2.RLTS.T44937492A46440201.en>>.
- Hayes, Derek. 2007. Historical Atlas of California. University of California Press, Berkeley.
- Haynes, G. 1991. Mammoths, Mastodons, and Elephants: Biology, Behavior and the Fossil Record. Cambridge University Press, Cambridge.
- Heizer, Robert F. 1949. The Archaeology of Central California, I: The Early Horizon. University of California Anthropological Records 12: 1-84.
- Heizer, R. F. and F. Fenenga. 1939. Archaeological Horizons in Central California. In American Anthropologist 41 (3): 378-399.
- Hoover, Mildred Brooke, Rensch, H.E., Rensch, E.G., Abeloe, William N. 1990. Historic Spots in California. Revised by Douglas E. Kyle.
- Jennings, M.R. and M.P. Hayes. 1985. Pre-1900 overharvest of the California red-legged frog (*Rana aurora draytonii*): the inducement for bullfrog (*Rana catesbeiana*) introduction. Herpetologica 41: 94-103.
- Jennings, M. R., and M. P. Hayes. 1994. Amphibian and Reptile Species of Special Concern in California. Final report to the California Department of Fish and Game, Inland Fisheries Division, Rancho Cordova, CA, under contract 8023.
- Kroeber, Alfred L. 1925. Handbook of the Indians of California. Bureau of American Ethnology Bulletin 78. Smithsonian Institution, Washington, DC. (Reprinted by Dover Publications, New York, 1976.)
- Lillard, Jeremiah B. and William K. Purves. 1936. The Archeology of the Deer Creek-Cosumnes Area, Sacramento County, California. Sacramento Junior College, Department of Anthropology Bulletin 1. Sacramento, California.
- Lillard, J. B., R. F. Heizer, and F. Fenenga. 1939. Introduction to the Archaeology of Central California. Sacramento Junior College, Department of Anthropology Bulletin 2. Sacramento, California.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

- Lincoln, A. E. 2016. Herpetofauna of the Bear River Watershed: Results from 2016 Surveys. Sierra Streams Institute, Nevada City, CA. 35 pp.
- Littlejohn, H. 1928. Nisenan Geography: Fieldnotes and Manuscript. Ethnological Documents, 35 (Cu-25.1, ms. No 18). University of California Archives, Museum of Anthropology Archives, Berkeley, California.
- Macfarlane R. P., K. D. Patten, L. A. Royce, B. K. W. Wyatt, and D. F. Mayer. 1994. Management potential of sixteen North American bumble bee species. *Melandieria* 50: 1-12.
- Meighan, C. W. and C. V. Haynes. 1970. The Borax Lake Site Revisited. *Science* 167(3922): 1213-1221.
- Meredith, H. C. 1900. Archaeology of California: Central and Northern California. In *Prehistoric Implements: A Reference Book*, edited by W. K. Moorehead. Robert Clarke, Cincinnati.
- Milliken R. 1995. *A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Area 1769–1810*. Ramona, CA: Ballena Press.
- Moratto, Michael J. 1984. *California Archaeology*. Academic Press, Orlando.
- Moyle, P. B. 1973. Effects of introduced bullfrogs, *Rana catesbeiana*, on the native frogs of the San Joaquin Valley, California. *Copeia* (1):18–22.
- Myer, Chuck. 2002. *Placer County: An Illustrated History*, pp. 20, 23-26. Heritage Media Corporation.
- Nafis, G. 2000-2013. *A Guide to Amphibians and Reptiles in California*. Online database. <<http://www.californiaherps.com/index.html>>.
- National Oceanic and Atmospheric Administration (NOAA). 2010. *Climatology of the United States No. 20 1971-2000, Station Nevada City, CA*. National Climatic Data Center. <<http://cdo.ncdc.noaa.gov/climatenormals/clim20/ca/046136.pdf>>.
- Natural Resources Conservation Service (NRCS). 2013. *Web soil survey. Nevada County Area, California (CA619)*. United States Department of Agriculture. <<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>>.
- Nevada County. 1995. *Nevada County Master Environmental Inventory*. <<http://www.mynevadacounty.com/nc/cda/planning/Pages/Nevada-County-General-Plan.aspx>>.
- Nevada County. 1996, 2008, 2010, 2014. *Nevada County General Plan*. <<http://www.mynevadacounty.com/nc/cda/planning/Pages/Nevada-County-General-Plan.aspx>>.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

Nevada County Transportation Commission. 2007. Airport Land Use Commission.
<http://www.nctc.ca.gov/about-nctc/aluc/>.

Nevada County. 2010. Western Nevada County Non-Motorized Recreational Trails Master Plan.
<https://www.mynevadacounty.com/nc/cda/planning/Pages/Western-Nevada-County-Non-motorized-Recreational-Trails-Master-Plan.aspx>.

Nevada County. 2015. Williamson Act Map. < Farmland Mapping and Monitoring Program (FMMP).
<[http://www.mynevadacounty.com/nc/igs/gis/docs/GIS%20Maps%20\(Public\)/Assessor%20GIS%20Maps/WilliamsonActParcels2014.pdf](http://www.mynevadacounty.com/nc/igs/gis/docs/GIS%20Maps%20(Public)/Assessor%20GIS%20Maps/WilliamsonActParcels2014.pdf)>.

Nevada Irrigation District and Pacific Gas & Electric Company. 2010. Technical Memorandum 3-9: Special-Status Aquatic Reptiles, Western Pond Turtle. Prepared for the FERC Relicensing of NID's Yuba-Bear Hydroelectric Project and PG&E's Drum-Spaulding Project.

Northern Sierra Air Quality Management District (NSAQMD). 2009, 2012, & 2014. Air Quality.
<<http://www.myairdistrict.com/>>.

Ragir, S.R. 1972. The Early Horizon in Central California Prehistory. Berkeley: Contributions of the University of California Publications in American Archaeology and Ethnology 14(5): 489-502.

Riddell, F. 1949. Appraisal of the Archaeological Resources of Farmington Reservoir, Littlejohns Creek, San Joaquin and Stanislaus Counties, California. Smithsonian Institution, River Basin Surveys, Pacific Coast Area, Washington, D.C.

Riddell, F. and W. Olsen. 1969. An Early Man Site in the San Joaquin Valley, California. American Antiquity 34(2): 121- 130.

River Partners. 2011. Restoration Plan for the Dry Creek Riparian Area, Beale Air Force Base. Yuba County, California. Prepared for Tulsa District, U.S. Army Corps of Engineers.

Rives, George L. 1913. The United States and Mexico: 1821 - 1848. Charles Scribner's Sons, New York.

Sacramento Metro Air Quality Management District (SMAQMD). 2014. Guide to Air Quality Assessment in Sacramento County, Greenhouse Gasses.
<<http://www.airquality.org/LandUseTransportation/Documents/Ch6GHG%20Final5-2016.pdf>>.

Saucedo and Wagner. 1992. Geological Map of the Chico Quadrangle, California.
<http://www.quake.ca.gov/gmaps/RGM/chico/chico.html>.

Sawyer, John, T. Keller-Wolf, and J. Evens. 2009. A manual of California vegetation, second edition. California Native Plant Society. Sacramento, California.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

- Schenk, W. E., and E. J. Dawson. 1929. Archaeology of the Northern San Joaquin Valley. University of California Publications American Archaeology and Ethnology 25(4): 289-413.
- Shapiro, W., K. Beck and J. Marine. 2000. Site Record, CA-PLA-930. On file, North Central Information Center, California State University-Sacramento.
- Sierra Streams Institute. 2014. Site Characterization Report and Final Removal Action Workplan for Providence Mine.
- State Water Resources Control Board (SWRCB). 2016. Porter-Cologne Water Quality Control Act. <http://www.waterboards.ca.gov/laws_regulations/docs/portercologne.pdf>. Accessed September 2016.
- Stebbins, R. C., and S. M. McGinnis. 2012. Field Guide to Amphibians and Reptiles of California: Revised Edition (California Natural History Guides) University of California Press.
- Thorp, R.W., D.S. Horning, and L.L. Dunning. 1983. Bumble bees and cuckoo bumble bees of California (Hymenoptera: Apidae). Bulletin of the California Insect Survey 23: viii+79 pp. As cited in Hatfield et al. 2015.
- Thorp, R.W. 2008. Franklin's Bumble Bee, *Bombus (Bombus) franklini* (Frison) (Hymenoptera: Apidae). Report on 2006-2007 Seasons. As cited in Hatfield et al. 2015.
- Treganza, A. E. 1952. Archaeological Investigations in the Farmington Reservoir Area, Stanislaus County, California. University of California Archaeological Survey Reports 14: 1-37.
- Tunstall, T. and G. Fellers. 1999. *Rana draytonii*: California Red-Legged Frog. <http://amphibiaweb.org/cgi/amphib_query?where-genus=Rana&where-species=draytonii&account=amphibiaweb>.
- U.S. Environmental Protection Agency (EPA). 2009. Greenhouse Gas Emissions. <http://www.epa.gov/climatechange/ghgemissions/>.
- U.S. Environmental Protection Agency (EPA). 2010. Clear Water Act Section 401- Water Quality Certification. A Water Quality Protection Tool for States and Tribes. U.S. Environmental Protection Agency- Office of Wetlands, Oceans, and Watersheds. Accessed August 16, 2016. <<http://water.epa.gov/lawsregs/guidance/cwa/upload/cwa-401-handbook-2010-interim.pdf>>.
- U.S. Fish and Wildlife Service. 2000. Draft recovery plan for the California red-legged frog (*Rana aurora draytonii*). Portland, OR.
- U.S. Fish and Wildlife Service (USFWS). 2002. Recovery Plan for the California Red-Legged Frog- *Rana aurora draytonii*. Region 1, U.S. Fish and Wildlife Service. Portland, Oregon. <http://ecos.fws.gov/docs/recovery_plans/2002/020528.pdf>.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

- U.S. Fish and Wildlife Service (USFWS). 2010a. California Red-Legged Frog Critical Habitat. U.S. Fish and Wildlife Service. <http://www.fws.gov/sacramento/es/Critical-Habitat/CA-Red-Legged-Frog/Current/es_critical-habitat-maps_ca-red-legged-frog.htm>.
- U.S. Fish and Wildlife Service (USFWS). 2010b. Questions and Answers– Designation of Critical Habitat for the California Red-Legged Frog Background. U.S. Fish and Wildlife Service. <http://www.fws.gov/sacramento/es/Critical-Habitat/CARed-Legged-Frog/Current/Documents/Critical_Habitat_CA_Red-Legged_Frog_2010_Q_and_A.pdf>.
- U.S. Fish and Wildlife Service (USFWS). 2016a. IPaC Trust Resources Report for Camptonville, Challenge, Chicago Park, French Corral, Grass Valley, Nevada City, North Bloomfield, Pike, Rough and Ready 7.5 minute U.S. Geological Survey Quadrangles. Results from online search for threatened and endangered species, critical habitat, migratory birds, refuges, hatcheries, and jurisdictional wetlands. From IPaC v3.0.8 - Information for Planning and Conservation (<https://ecos.fws.gov/ipac/>): A project planning tool to help streamline the U.S. Fish & Wildlife Service environmental review process. Sacramento Fish and Wildlife Office. Online report generated August 17, 2016. <<https://ecos.fws.gov/ipac/project/MVPB5-SZCOR-CTFPA-JEM5R-5XJPDI>>.
- U.S. Fish and Wildlife Service. 2016b. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sierra Nevada Yellow-Legged Frog, the Northern DPS of the Mountain Yellow-Legged Frog, and the Yosemite Toad. Federal Register Vol. 81, No. 166, Pages 59046-59119. 50 CFR Part 17. Docket No. FWS–R8–ES–2012–0074; 4500030113. August 26, 2016.
- U.S. Fish and Wildlife Service. 2016c. Sierra Nevada Yellow-legged Frog (*Rana sierrae*) Species Information. Sacramento Fish and Wildlife Office Online Database. <https://www.fws.gov/sacramento/es_species/Accounts/Amphibians-Reptiles/es_sn-yellow-legged-frog.htm>. Updated September 16, 2016.
- United States Geological Survey (USGS). 2014. Earthquake Hazards Program: Quaternary Fault and Fold Database of the United States- Interactive Fault Map. U.S. Geological Survey. Accessed September 12, 2016 <<http://earthquake.usgs.gov/hazards/qfaults/map/#qfaults>>
- Waechter, S. A. and S. D. Mikesell. 1994. Research Design for Prehistoric, Ethnographic, and Historic Cultural Resources at Folsom Reservoir, California. USDI Bureau of Reclamation, Sacramento.
- Willig, J. 1988. Clovis Technology and Adaptation in Far Western North America: Regional Pattern and Environmental Context. In Clovis: Origins and Adaptations, edited by R. Bonnicksen and K. Turnmire. Center for the Study of the First Americans, Corvallis.



LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

References

November 7, 2016

- Willig, J. and C. M. Aikens. 1988. The Clovis-Archaic Interface in Far Western North America. In *Early Human Occupation in the Far Western North America: The Clovis-Archaic Interface*, edited by J. Willig. Nevada State Museum Anthropological Papers No. 21, Carson City.
- Williams et al. 2014. *Bombus*, bumblebees of the world. Web pages based on Williams, P.H. 1998. An annotated checklist of bumblebees with an analysis of patterns of description (Hymenoptera: Apidae, Bombini). *Bulletin of the Natural History Museum (Entomology)* 67: 79-152. <<http://www.nhm.ac.uk/research-curation/research/projects/bombus/index.html>>.
- Wilson, Norman L., and Arlean H Towne. 1978. Nisenan. In *California*, edited by Robert F. Heizer, pp. 387-397. *Handbook of North American Indians Vol. 8*, William C. Sturtevant, general editor. Smithsonian Institution, Washington, DC.
- Wetland Training Institute, Inc. 2001. *Field Guide for Wetland Delineation: 1987 Corps of Engineers Manual*. Glenwood, NM. WTI 01-2. 143 pp.
- Zeiner, D.C., W.F.Laudenslayer, Jr., K.E. Mayer, and M. White, eds. 1988-1990. *California's Wildlife*. Vol. I-III. California Depart. of Fish and Game, Sacramento, California.

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Appendix A CalEEMod Calculations
November 7, 2016

Appendix A CALEEMOD CALCULATIONS

deer creek_field grading and trail
Northern Sierra AQMD Air District, Summer

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
City Park	3.70	Acre	3.70	161,172.00	0

1.2 Other Project Characteristics

Urbanization	Rural	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	72
Climate Zone	1			Operational Year	2018
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MWhr)	641.35	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006

1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use -

Construction Phase - non-default values based on PD

Off-road Equipment - non-default values based on PD

Off-road Equipment - non-default values based on PD

Trips and VMT - half the trip to Grass Valley, half to Wheatland = 40 miles average

Grading - non-default values based on PD

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	8.00	50.00
tblGrading	AcresOfGrading	25.00	3.70
tblGrading	MaterialExported	0.00	1,750.00
tblGrading	MaterialImported	0.00	1,525.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	3.00	2.00
tblProjectCharacteristics	OperationalYear	2014	2018
tblProjectCharacteristics	UrbanizationLevel	Urban	Rural
tblTripsAndVMT	HaulingTripLength	20.00	40.00
tblTripsAndVMT	WorkerTripNumber	13.00	8.00

2.0 Emissions Summary

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2018	2.9124	30.3294	23.4926	0.0343	6.3627	1.5639	7.9266	3.3887	1.4388	4.8275	0.0000	3,405.5640	3,405.5640	0.8435	0.0000	3,423.2777
Total	2.9124	30.3294	23.4926	0.0343	6.3627	1.5639	7.9266	3.3887	1.4388	4.8275	0.0000	3,405.5640	3,405.5640	0.8435	0.0000	3,423.2777

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2018	2.9124	30.3294	23.4926	0.0343	6.3627	1.5639	7.9266	3.3887	1.4388	4.8275	0.0000	3,405.5640	3,405.5640	0.8435	0.0000	3,423.2777
Total	2.9124	30.3294	23.4926	0.0343	6.3627	1.5639	7.9266	3.3887	1.4388	4.8275	0.0000	3,405.5640	3,405.5640	0.8435	0.0000	3,423.2777

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Grading	Grading	6/11/2018	8/17/2018	5	50	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 3.7

Acres of Paving: 0

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Grading	Excavators	1	8.00	162	0.38
Grading	Graders	1	8.00	174	0.41
Grading	Rubber Tired Dozers	1	8.00	255	0.40
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Grading	5	8.00	0.00	219.00	16.80	6.60	40.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Grading - 2018

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					6.1080	0.0000	6.1080	3.3198	0.0000	3.3198			0.0000			0.0000
Off-Road	2.7367	28.4405	21.6621	0.0266		1.5338	1.5338		1.4111	1.4111		2,680.3245	2,680.3245	0.8344		2,697.8474
Total	2.7367	28.4405	21.6621	0.0266	6.1080	1.5338	7.6418	3.3198	1.4111	4.7309		2,680.3245	2,680.3245	0.8344		2,697.8474

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1368	1.8373	1.2570	6.4500e-003	0.1525	0.0293	0.1819	0.0418	0.0270	0.0687		630.6179	630.6179	4.1100e-003		630.7042
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0389	0.0517	0.5735	1.2500e-003	0.1022	8.2000e-004	0.1030	0.0271	7.5000e-004	0.0279		94.6216	94.6216	4.9800e-003		94.7261
Total	0.1757	1.8889	1.8306	7.7000e-003	0.2547	0.0301	0.2849	0.0689	0.0277	0.0966		725.2395	725.2395	9.0900e-003		725.4303

3.2 Grading - 2018

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					6.1080	0.0000	6.1080	3.3198	0.0000	3.3198			0.0000			0.0000
Off-Road	2.7367	28.4405	21.6621	0.0266		1.5338	1.5338		1.4111	1.4111	0.0000	2,680.3245	2,680.3245	0.8344		2,697.8474
Total	2.7367	28.4405	21.6621	0.0266	6.1080	1.5338	7.6418	3.3198	1.4111	4.7309	0.0000	2,680.3245	2,680.3245	0.8344		2,697.8474

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1368	1.8373	1.2570	6.4500e-003	0.1525	0.0293	0.1819	0.0418	0.0270	0.0687		630.6179	630.6179	4.1100e-003		630.7042
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0389	0.0517	0.5735	1.2500e-003	0.1022	8.2000e-004	0.1030	0.0271	7.5000e-004	0.0279		94.6216	94.6216	4.9800e-003		94.7261
Total	0.1757	1.8889	1.8306	7.7000e-003	0.2547	0.0301	0.2849	0.0689	0.0277	0.0966		725.2395	725.2395	9.0900e-003		725.4303

4.0 Operational Detail - Mobile

deer creek_field grading and trail
Northern Sierra AQMD Air District, Winter

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
City Park	3.70	Acre	3.70	161,172.00	0

1.2 Other Project Characteristics

Urbanization	Rural	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	72
Climate Zone	1			Operational Year	2018
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MWhr)	641.35	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006

1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use -

Construction Phase - non-default values based on PD

Off-road Equipment - non-default values based on PD

Off-road Equipment - non-default values based on PD

Trips and VMT - half the trip to Grass Valley, half to Wheatland = 40 miles average

Grading - non-default values based on PD

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	8.00	50.00
tblGrading	AcresOfGrading	25.00	3.70
tblGrading	MaterialExported	0.00	1,750.00
tblGrading	MaterialImported	0.00	1,525.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	3.00	2.00
tblProjectCharacteristics	OperationalYear	2014	2018
tblProjectCharacteristics	UrbanizationLevel	Urban	Rural
tblTripsAndVMT	HaulingTripLength	20.00	40.00
tblTripsAndVMT	WorkerTripNumber	13.00	8.00

2.0 Emissions Summary

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2018	2.9518	30.4659	24.3526	0.0342	6.3627	1.5640	7.9267	3.3887	1.4388	4.8275	0.0000	3,397.2805	3,397.2805	0.8435	0.0000	3,414.9949
Total	2.9518	30.4659	24.3526	0.0342	6.3627	1.5640	7.9267	3.3887	1.4388	4.8275	0.0000	3,397.2805	3,397.2805	0.8435	0.0000	3,414.9949

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2018	2.9518	30.4659	24.3526	0.0342	6.3627	1.5640	7.9267	3.3887	1.4388	4.8275	0.0000	3,397.2805	3,397.2805	0.8435	0.0000	3,414.9949
Total	2.9518	30.4659	24.3526	0.0342	6.3627	1.5640	7.9267	3.3887	1.4388	4.8275	0.0000	3,397.2805	3,397.2805	0.8435	0.0000	3,414.9949

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Grading	Grading	6/11/2018	8/17/2018	5	50	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 3.7

Acres of Paving: 0

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Grading	Excavators	1	8.00	162	0.38
Grading	Graders	1	8.00	174	0.41
Grading	Rubber Tired Dozers	1	8.00	255	0.40
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Grading	5	8.00	0.00	219.00	16.80	6.60	40.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Grading - 2018

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					6.1080	0.0000	6.1080	3.3198	0.0000	3.3198			0.0000			0.0000
Off-Road	2.7367	28.4405	21.6621	0.0266		1.5338	1.5338		1.4111	1.4111		2,680.3245	2,680.3245	0.8344		2,697.8474
Total	2.7367	28.4405	21.6621	0.0266	6.1080	1.5338	7.6418	3.3198	1.4111	4.7309		2,680.3245	2,680.3245	0.8344		2,697.8474

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1761	1.9570	2.1059	6.4600e-003	0.1525	0.0294	0.1819	0.0418	0.0270	0.0688		629.8686	629.8686	4.1500e-003		629.9557
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0390	0.0685	0.5847	1.1500e-003	0.1022	8.2000e-004	0.1030	0.0271	7.5000e-004	0.0279		87.0874	87.0874	4.9800e-003		87.1919
Total	0.2151	2.0255	2.6906	7.6100e-003	0.2547	0.0302	0.2849	0.0689	0.0278	0.0966		716.9560	716.9560	9.1300e-003		717.1476

3.2 Grading - 2018

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					6.1080	0.0000	6.1080	3.3198	0.0000	3.3198			0.0000			0.0000
Off-Road	2.7367	28.4405	21.6621	0.0266		1.5338	1.5338		1.4111	1.4111	0.0000	2,680.3245	2,680.3245	0.8344		2,697.8474
Total	2.7367	28.4405	21.6621	0.0266	6.1080	1.5338	7.6418	3.3198	1.4111	4.7309	0.0000	2,680.3245	2,680.3245	0.8344		2,697.8474

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.1761	1.9570	2.1059	6.4600e-003	0.1525	0.0294	0.1819	0.0418	0.0270	0.0688		629.8686	629.8686	4.1500e-003		629.9557
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0390	0.0685	0.5847	1.1500e-003	0.1022	8.2000e-004	0.1030	0.0271	7.5000e-004	0.0279		87.0874	87.0874	4.9800e-003		87.1919
Total	0.2151	2.0255	2.6906	7.6100e-003	0.2547	0.0302	0.2849	0.0689	0.0278	0.0966		716.9560	716.9560	9.1300e-003		717.1476

4.0 Operational Detail - Mobile

**deer creek_field grading and trail
Northern Sierra AQMD Air District, Annual**

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
City Park	3.70	Acre	3.70	161,172.00	0

1.2 Other Project Characteristics

Urbanization	Rural	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	72
Climate Zone	1			Operational Year	2018
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MWhr)	641.35	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006

1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use -

Construction Phase - non-default values based on PD

Off-road Equipment - non-default values based on PD

Off-road Equipment - non-default values based on PD

Trips and VMT - half the trip to Grass Valley, half to Wheatland = 40 miles average

Grading - non-default values based on PD

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	8.00	50.00
tblGrading	AcresOfGrading	25.00	3.70
tblGrading	MaterialExported	0.00	1,750.00
tblGrading	MaterialImported	0.00	1,525.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	3.00	2.00
tblProjectCharacteristics	OperationalYear	2014	2018
tblProjectCharacteristics	UrbanizationLevel	Urban	Rural
tblTripsAndVMT	HaulingTripLength	20.00	40.00
tblTripsAndVMT	WorkerTripNumber	13.00	8.00

2.0 Emissions Summary

2.1 Overall Construction

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2018	0.0733	0.7608	0.5990	8.6000e-004	0.1588	0.0391	0.1979	0.0847	0.0360	0.1206	0.0000	77.0895	77.0895	0.0191	0.0000	77.4912
Total	0.0733	0.7608	0.5990	8.6000e-004	0.1588	0.0391	0.1979	0.0847	0.0360	0.1206	0.0000	77.0895	77.0895	0.0191	0.0000	77.4912

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2018	0.0733	0.7608	0.5990	8.6000e-004	0.1588	0.0391	0.1979	0.0847	0.0360	0.1206	0.0000	77.0894	77.0894	0.0191	0.0000	77.4911
Total	0.0733	0.7608	0.5990	8.6000e-004	0.1588	0.0391	0.1979	0.0847	0.0360	0.1206	0.0000	77.0894	77.0894	0.0191	0.0000	77.4911

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

2.2 Overall Operational

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	0.8162	0.0000	3.0000e-005	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	7.0000e-005	7.0000e-005	0.0000	0.0000	7.0000e-005
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	5.9800e-003	0.0160	0.0638	9.0000e-005	5.4100e-003	1.9000e-004	5.6000e-003	1.4500e-003	1.8000e-004	1.6300e-003	0.0000	7.0200	7.0200	3.0000e-004	0.0000	7.0263
Waste						0.0000	0.0000		0.0000	0.0000	0.0650	0.0000	0.0650	3.8400e-003	0.0000	0.1456
Water						0.0000	0.0000		0.0000	0.0000	0.0000	4.4887	4.4887	2.0000e-004	4.0000e-005	4.5060
Total	0.8222	0.0160	0.0638	9.0000e-005	5.4100e-003	1.9000e-004	5.6000e-003	1.4500e-003	1.8000e-004	1.6300e-003	0.0650	11.5087	11.5737	4.3400e-003	4.0000e-005	11.6779

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Grading	Grading	6/11/2018	8/17/2018	5	50	

Acres of Grading (Site Preparation Phase): 0

Acres of Grading (Grading Phase): 3.7

Acres of Paving: 0

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Grading	Excavators	1	8.00	162	0.38
Grading	Graders	1	8.00	174	0.41
Grading	Rubber Tired Dozers	1	8.00	255	0.40
Grading	Tractors/Loaders/Backhoes	2	8.00	97	0.37

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Grading	5	8.00	0.00	219.00	16.80	6.60	40.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Grading - 2018

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1527	0.0000	0.1527	0.0830	0.0000	0.0830	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0684	0.7110	0.5416	6.7000e-004		0.0383	0.0383		0.0353	0.0353	0.0000	60.7887	60.7887	0.0189	0.0000	61.1862
Total	0.0684	0.7110	0.5416	6.7000e-004	0.1527	0.0383	0.1910	0.0830	0.0353	0.1183	0.0000	60.7887	60.7887	0.0189	0.0000	61.1862

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	3.9500e-003	0.0482	0.0434	1.6000e-004	3.6700e-003	7.3000e-004	4.4000e-003	1.0100e-003	6.7000e-004	1.6800e-003	0.0000	14.2950	14.2950	9.0000e-005	0.0000	14.2970
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	9.2000e-004	1.5600e-003	0.0140	3.0000e-005	2.4500e-003	2.0000e-005	2.4700e-003	6.5000e-004	2.0000e-005	6.7000e-004	0.0000	2.0057	2.0057	1.1000e-004	0.0000	2.0081
Total	4.8700e-003	0.0498	0.0574	1.9000e-004	6.1200e-003	7.5000e-004	6.8700e-003	1.6600e-003	6.9000e-004	2.3500e-003	0.0000	16.3007	16.3007	2.0000e-004	0.0000	16.3051

3.2 Grading - 2018

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.1527	0.0000	0.1527	0.0830	0.0000	0.0830	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0684	0.7110	0.5416	6.7000e-004		0.0383	0.0383		0.0353	0.0353	0.0000	60.7887	60.7887	0.0189	0.0000	61.1861
Total	0.0684	0.7110	0.5416	6.7000e-004	0.1527	0.0383	0.1910	0.0830	0.0353	0.1183	0.0000	60.7887	60.7887	0.0189	0.0000	61.1861

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	3.9500e-003	0.0482	0.0434	1.6000e-004	3.6700e-003	7.3000e-004	4.4000e-003	1.0100e-003	6.7000e-004	1.6800e-003	0.0000	14.2950	14.2950	9.0000e-005	0.0000	14.2970
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	9.2000e-004	1.5600e-003	0.0140	3.0000e-005	2.4500e-003	2.0000e-005	2.4700e-003	6.5000e-004	2.0000e-005	6.7000e-004	0.0000	2.0057	2.0057	1.1000e-004	0.0000	2.0081
Total	4.8700e-003	0.0498	0.0574	1.9000e-004	6.1200e-003	7.5000e-004	6.8700e-003	1.6600e-003	6.9000e-004	2.3500e-003	0.0000	16.3007	16.3007	2.0000e-004	0.0000	16.3051

4.0 Operational Detail - Mobile

Deer Creek_Creek Restoration
Northern Sierra AQMD Air District, Summer

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
City Park	0.20	Acre	0.20	8,712.00	0

1.2 Other Project Characteristics

Urbanization	Rural	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	72
Climate Zone	1			Operational Year	2017
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MWhr)	641.35	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006

1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use -

Construction Phase - non-default values based on PD

Off-road Equipment - non-default values based on PD

Off-road Equipment -

Trips and VMT - half trips to Grass Valley, half to Wheatland = average 40 miles

Grading - non-default values based on PD

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	2.00	50.00
tblConstructionPhase	NumDays	1.00	5.00
tblConstructionPhase	PhaseStartDate	6/10/2017	6/12/2017
tblGrading	AcresOfGrading	12.50	0.20
tblGrading	MaterialExported	0.00	480.00
tblGrading	MaterialImported	0.00	200.00
tblOffRoadEquipment	HorsePower	162.00	174.00
tblOffRoadEquipment	LoadFactor	0.38	0.41
tblProjectCharacteristics	OperationalYear	2014	2017
tblProjectCharacteristics	UrbanizationLevel	Urban	Rural
tblTripsAndVMT	HaulingTripLength	20.00	40.00

2.0 Emissions Summary

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2017	2.2445	20.8399	16.7357	0.0261	1.0093	1.2405	2.2498	0.4815	1.1657	1.6472	0.0000	2,563.211 4	2,563.211 4	0.5352	0.0000	2,574.450 3
Total	2.2445	20.8399	16.7357	0.0261	1.0093	1.2405	2.2498	0.4815	1.1657	1.6472	0.0000	2,563.211 4	2,563.211 4	0.5352	0.0000	2,574.450 3

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2017	2.2445	20.8399	16.7357	0.0261	1.0093	1.2405	2.2498	0.4815	1.1657	1.6472	0.0000	2,563.211 4	2,563.211 4	0.5352	0.0000	2,574.450 3
Total	2.2445	20.8399	16.7357	0.0261	1.0093	1.2405	2.2498	0.4815	1.1657	1.6472	0.0000	2,563.211 4	2,563.211 4	0.5352	0.0000	2,574.450 3

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Site Preparation	Site Preparation	6/5/2017	6/9/2017	5	5	
2	Creek Restoration	Grading	6/12/2017	8/18/2017	5	50	

Acres of Grading (Site Preparation Phase): 2.5

Acres of Grading (Grading Phase): 0

Acres of Paving: 0

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Site Preparation	Graders	1	8.00	174	0.41
Site Preparation	Tractors/Loaders/Backhoes	1	8.00	97	0.37
Creek Restoration	Concrete/Industrial Saws	1	8.00	81	0.73
Creek Restoration	Excavators	1	8.00	174	0.41
Creek Restoration	Graders	1	4.00	174	0.41
Creek Restoration	Rubber Tired Dozers	1	1.00	255	0.40
Creek Restoration	Tractors/Loaders/Backhoes	2	6.00	97	0.37

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Site Preparation	2	5.00	0.00	0.00	16.80	6.60	20.00	LD_Mix	HDT_Mix	HHDT
Creek Restoration	6	15.00	0.00	85.00	16.80	6.60	40.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Site Preparation - 2017

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.5303	0.0000	0.5303	0.0573	0.0000	0.0573			0.0000			0.0000
Off-Road	1.2694	12.6852	7.2319	9.3300e-003		0.7705	0.7705		0.7089	0.7089		955.8663	955.8663	0.2929		962.0167
Total	1.2694	12.6852	7.2319	9.3300e-003	0.5303	0.7705	1.3007	0.0573	0.7089	0.7661		955.8663	955.8663	0.2929		962.0167

3.2 Site Preparation - 2017

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e	
Category	lb/day										lb/day						
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000			0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000			0.0000
Worker	0.0285	0.0368	0.4118	7.8000e-004	0.0639	5.4000e-004	0.0644	0.0169	5.0000e-004	0.0174		61.4725	61.4725	3.4600e-003			61.5452
Total	0.0285	0.0368	0.4118	7.8000e-004	0.0639	5.4000e-004	0.0644	0.0169	5.0000e-004	0.0174		61.4725	61.4725	3.4600e-003			61.5452

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e	
Category	lb/day										lb/day						
Fugitive Dust					0.5303	0.0000	0.5303	0.0573	0.0000	0.0573			0.0000			0.0000	
Off-Road	1.2694	12.6852	7.2319	9.3300e-003		0.7705	0.7705		0.7089	0.7089	0.0000	955.8663	955.8663	0.2929			962.0167
Total	1.2694	12.6852	7.2319	9.3300e-003	0.5303	0.7705	1.3007	0.0573	0.7089	0.7661	0.0000	955.8663	955.8663	0.2929			962.0167

3.2 Site Preparation - 2017

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e	
Category	lb/day										lb/day						
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000			0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000			0.0000
Worker	0.0285	0.0368	0.4118	7.8000e-004	0.0639	5.4000e-004	0.0644	0.0169	5.0000e-004	0.0174		61.4725	61.4725	3.4600e-003			61.5452
Total	0.0285	0.0368	0.4118	7.8000e-004	0.0639	5.4000e-004	0.0644	0.0169	5.0000e-004	0.0174		61.4725	61.4725	3.4600e-003			61.5452

3.3 Creek Restoration - 2017

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.7585	0.0000	0.7585	0.4145	0.0000	0.4145			0.0000			0.0000
Off-Road	2.1009	19.9517	14.9661	0.0213		1.2264	1.2264		1.1528	1.1528		2,129.8655	2,129.8655	0.5231		2,140.8515
Total	2.1009	19.9517	14.9661	0.0213	0.7585	1.2264	1.9849	0.4145	1.1528	1.5673		2,129.8655	2,129.8655	0.5231		2,140.8515

3.3 Creek Restoration - 2017

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0581	0.7778	0.5341	2.5100e-003	0.0592	0.0124	0.0716	0.0162	0.0114	0.0276		248.9284	248.9284	1.6500e-003		248.9631
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0855	0.1103	1.2355	2.3400e-003	0.1916	1.6300e-003	0.1932	0.0508	1.4900e-003	0.0523		184.4175	184.4175	0.0104		184.6357
Total	0.1436	0.8881	1.7696	4.8500e-003	0.2508	0.0141	0.2649	0.0670	0.0129	0.0799		433.3459	433.3459	0.0120		433.5988

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.7585	0.0000	0.7585	0.4145	0.0000	0.4145			0.0000			0.0000
Off-Road	2.1009	19.9517	14.9661	0.0213		1.2264	1.2264		1.1528	1.1528	0.0000	2,129.8655	2,129.8655	0.5231		2,140.8514
Total	2.1009	19.9517	14.9661	0.0213	0.7585	1.2264	1.9849	0.4145	1.1528	1.5673	0.0000	2,129.8655	2,129.8655	0.5231		2,140.8514

3.3 Creek Restoration - 2017

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0581	0.7778	0.5341	2.5100e-003	0.0592	0.0124	0.0716	0.0162	0.0114	0.0276		248.9284	248.9284	1.6500e-003		248.9631
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0855	0.1103	1.2355	2.3400e-003	0.1916	1.6300e-003	0.1932	0.0508	1.4900e-003	0.0523		184.4175	184.4175	0.0104		184.6357
Total	0.1436	0.8881	1.7696	4.8500e-003	0.2508	0.0141	0.2649	0.0670	0.0129	0.0799		433.3459	433.3459	0.0120		433.5988

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	1.9000e-003	4.7000e-003	0.0174	3.0000e-005	1.6800e-003	6.0000e-005	1.7400e-003	4.5000e-004	6.0000e-005	5.1000e-004		2.4546	2.4546	1.1000e-004		2.4569
Unmitigated	1.9000e-003	4.7000e-003	0.0174	3.0000e-005	1.6800e-003	6.0000e-005	1.7400e-003	4.5000e-004	6.0000e-005	5.1000e-004		2.4546	2.4546	1.1000e-004		2.4569

Deer Creek_Creek Restoration
Northern Sierra AQMD Air District, Winter

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
City Park	0.20	Acre	0.20	8,712.00	0

1.2 Other Project Characteristics

Urbanization	Rural	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	72
Climate Zone	1			Operational Year	2017
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MWhr)	641.35	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006

1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use -

Construction Phase - non-default values based on PD

Off-road Equipment - non-default values based on PD

Off-road Equipment -

Trips and VMT - half trips to Grass Valley, half to Wheatland = average 40 miles

Grading - non-default values based on PD

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	2.00	50.00
tblConstructionPhase	NumDays	1.00	5.00
tblConstructionPhase	PhaseStartDate	6/10/2017	6/12/2017
tblGrading	AcresOfGrading	12.50	0.20
tblGrading	MaterialExported	0.00	480.00
tblGrading	MaterialImported	0.00	200.00
tblOffRoadEquipment	HorsePower	162.00	174.00
tblOffRoadEquipment	LoadFactor	0.38	0.41
tblProjectCharacteristics	OperationalYear	2014	2017
tblProjectCharacteristics	UrbanizationLevel	Urban	Rural
tblTripsAndVMT	HaulingTripLength	20.00	40.00

2.0 Emissions Summary

2.1 Overall Construction (Maximum Daily Emission)

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2017	2.2648	20.9262	17.0991	0.0259	1.0093	1.2405	2.2498	0.4815	1.1658	1.6472	0.0000	2,548.2607	2,548.2607	0.5352	0.0000	2,559.4998
Total	2.2648	20.9262	17.0991	0.0259	1.0093	1.2405	2.2498	0.4815	1.1658	1.6472	0.0000	2,548.2607	2,548.2607	0.5352	0.0000	2,559.4998

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2017	2.2648	20.9262	17.0991	0.0259	1.0093	1.2405	2.2498	0.4815	1.1658	1.6472	0.0000	2,548.2607	2,548.2607	0.5352	0.0000	2,559.4998
Total	2.2648	20.9262	17.0991	0.0259	1.0093	1.2405	2.2498	0.4815	1.1658	1.6472	0.0000	2,548.2607	2,548.2607	0.5352	0.0000	2,559.4998

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Site Preparation	Site Preparation	6/5/2017	6/9/2017	5	5	
2	Creek Restoration	Grading	6/12/2017	8/18/2017	5	50	

Acres of Grading (Site Preparation Phase): 2.5

Acres of Grading (Grading Phase): 0

Acres of Paving: 0

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Site Preparation	Graders	1	8.00	174	0.41
Site Preparation	Tractors/Loaders/Backhoes	1	8.00	97	0.37
Creek Restoration	Concrete/Industrial Saws	1	8.00	81	0.73
Creek Restoration	Excavators	1	8.00	174	0.41
Creek Restoration	Graders	1	4.00	174	0.41
Creek Restoration	Rubber Tired Dozers	1	1.00	255	0.40
Creek Restoration	Tractors/Loaders/Backhoes	2	6.00	97	0.37

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Site Preparation	2	5.00	0.00	0.00	16.80	6.60	20.00	LD_Mix	HDT_Mix	HHDT
Creek Restoration	6	15.00	0.00	85.00	16.80	6.60	40.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Site Preparation - 2017

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.5303	0.0000	0.5303	0.0573	0.0000	0.0573			0.0000			0.0000
Off-Road	1.2694	12.6852	7.2319	9.3300e-003		0.7705	0.7705		0.7089	0.7089		955.8663	955.8663	0.2929		962.0167
Total	1.2694	12.6852	7.2319	9.3300e-003	0.5303	0.7705	1.3007	0.0573	0.7089	0.7661		955.8663	955.8663	0.2929		962.0167

3.2 Site Preparation - 2017

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e	
Category	lb/day										lb/day						
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000			0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000			0.0000
Worker	0.0291	0.0487	0.4262	7.2000e-004	0.0639	5.4000e-004	0.0644	0.0169	5.0000e-004	0.0174		56.5874	56.5874	3.4600e-003			56.6602
Total	0.0291	0.0487	0.4262	7.2000e-004	0.0639	5.4000e-004	0.0644	0.0169	5.0000e-004	0.0174		56.5874	56.5874	3.4600e-003			56.6602

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e	
Category	lb/day										lb/day						
Fugitive Dust					0.5303	0.0000	0.5303	0.0573	0.0000	0.0573			0.0000			0.0000	
Off-Road	1.2694	12.6852	7.2319	9.3300e-003		0.7705	0.7705		0.7089	0.7089	0.0000	955.8663	955.8663	0.2929			962.0167
Total	1.2694	12.6852	7.2319	9.3300e-003	0.5303	0.7705	1.3007	0.0573	0.7089	0.7661	0.0000	955.8663	955.8663	0.2929			962.0167

3.2 Site Preparation - 2017

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e	
Category	lb/day										lb/day						
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000			0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000			0.0000
Worker	0.0291	0.0487	0.4262	7.2000e-004	0.0639	5.4000e-004	0.0644	0.0169	5.0000e-004	0.0174		56.5874	56.5874	3.4600e-003			56.6602
Total	0.0291	0.0487	0.4262	7.2000e-004	0.0639	5.4000e-004	0.0644	0.0169	5.0000e-004	0.0174		56.5874	56.5874	3.4600e-003			56.6602

3.3 Creek Restoration - 2017

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e	
Category	lb/day										lb/day						
Fugitive Dust					0.7585	0.0000	0.7585	0.4145	0.0000	0.4145			0.0000			0.0000	
Off-Road	2.1009	19.9517	14.9661	0.0213		1.2264	1.2264		1.1528	1.1528		2,129.8655	2,129.8655	0.5231			2,140.8515
Total	2.1009	19.9517	14.9661	0.0213	0.7585	1.2264	1.9849	0.4145	1.1528	1.5673		2,129.8655	2,129.8655	0.5231			2,140.8515

3.3 Creek Restoration - 2017

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0768	0.8284	0.8546	2.5100e-003	0.0592	0.0125	0.0717	0.0162	0.0115	0.0277		248.6329	248.6329	1.6700e-003		248.6679
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0871	0.1460	1.2785	2.1500e-003	0.1916	1.6300e-003	0.1932	0.0508	1.4900e-003	0.0523		169.7623	169.7623	0.0104		169.9804
Total	0.1639	0.9745	2.1330	4.6600e-003	0.2508	0.0141	0.2649	0.0670	0.0129	0.0800		418.3952	418.3952	0.0121		418.6483

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.7585	0.0000	0.7585	0.4145	0.0000	0.4145			0.0000			0.0000
Off-Road	2.1009	19.9517	14.9661	0.0213		1.2264	1.2264		1.1528	1.1528	0.0000	2,129.8655	2,129.8655	0.5231		2,140.8514
Total	2.1009	19.9517	14.9661	0.0213	0.7585	1.2264	1.9849	0.4145	1.1528	1.5673	0.0000	2,129.8655	2,129.8655	0.5231		2,140.8514

3.3 Creek Restoration - 2017

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.0768	0.8284	0.8546	2.5100e-003	0.0592	0.0125	0.0717	0.0162	0.0115	0.0277		248.6329	248.6329	1.6700e-003		248.6679
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0871	0.1460	1.2785	2.1500e-003	0.1916	1.6300e-003	0.1932	0.0508	1.4900e-003	0.0523		169.7623	169.7623	0.0104		169.9804
Total	0.1639	0.9745	2.1330	4.6600e-003	0.2508	0.0141	0.2649	0.0670	0.0129	0.0800		418.3952	418.3952	0.0121		418.6483

4.0 Operational Detail - Mobile

4.1 Mitigation Measures Mobile

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	2.1900e-003	5.3100e-003	0.0236	3.0000e-005	1.6800e-003	6.0000e-005	1.7400e-003	4.5000e-004	6.0000e-005	5.1000e-004		2.3345	2.3345	1.1000e-004		2.3368
Unmitigated	2.1900e-003	5.3100e-003	0.0236	3.0000e-005	1.6800e-003	6.0000e-005	1.7400e-003	4.5000e-004	6.0000e-005	5.1000e-004		2.3345	2.3345	1.1000e-004		2.3368

**Deer Creek_Creek Restoration
Northern Sierra AQMD Air District, Annual**

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
City Park	0.20	Acre	0.20	8,712.00	0

1.2 Other Project Characteristics

Urbanization	Rural	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	72
Climate Zone	1			Operational Year	2017
Utility Company	Pacific Gas & Electric Company				
CO2 Intensity (lb/MWhr)	641.35	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006

1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use -

Construction Phase - non-default values based on PD

Off-road Equipment - non-default values based on PD

Off-road Equipment -

Trips and VMT - half trips to Grass Valley, half to Wheatland = average 40 miles

Grading - non-default values based on PD

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	2.00	50.00
tblConstructionPhase	NumDays	1.00	5.00
tblConstructionPhase	PhaseStartDate	6/10/2017	6/12/2017
tblGrading	AcresOfGrading	12.50	0.20
tblGrading	MaterialExported	0.00	480.00
tblGrading	MaterialImported	0.00	200.00
tblOffRoadEquipment	HorsePower	162.00	174.00
tblOffRoadEquipment	LoadFactor	0.38	0.41
tblProjectCharacteristics	OperationalYear	2014	2017
tblProjectCharacteristics	UrbanizationLevel	Urban	Rural
tblTripsAndVMT	HaulingTripLength	20.00	40.00

2.0 Emissions Summary

2.1 Overall Construction

Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2017	0.0595	0.5544	0.4417	6.7000e-004	0.0265	0.0329	0.0594	0.0122	0.0309	0.0431	0.0000	60.1552	60.1552	0.0128	0.0000	60.4242
Total	0.0595	0.5544	0.4417	6.7000e-004	0.0265	0.0329	0.0594	0.0122	0.0309	0.0431	0.0000	60.1552	60.1552	0.0128	0.0000	60.4242

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2017	0.0595	0.5544	0.4417	6.7000e-004	0.0265	0.0329	0.0594	0.0122	0.0309	0.0431	0.0000	60.1551	60.1551	0.0128	0.0000	60.4241
Total	0.0595	0.5544	0.4417	6.7000e-004	0.0265	0.0329	0.0594	0.0122	0.0309	0.0431	0.0000	60.1551	60.1551	0.0128	0.0000	60.4241

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

2.2 Overall Operational

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	0.0441	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	3.6000e-004	9.3000e-004	3.7600e-003	0.0000	2.9000e-004	1.0000e-005	3.0000e-004	8.0000e-005	1.0000e-005	9.0000e-005	0.0000	0.3888	0.3888	2.0000e-005	0.0000	0.3892
Waste						0.0000	0.0000		0.0000	0.0000	4.0600e-003	0.0000	4.0600e-003	2.4000e-004	0.0000	9.1000e-003
Water						0.0000	0.0000		0.0000	0.0000	0.0000	0.2426	0.2426	1.0000e-005	0.0000	0.2436
Total	0.0445	9.3000e-004	3.7600e-003	0.0000	2.9000e-004	1.0000e-005	3.0000e-004	8.0000e-005	1.0000e-005	9.0000e-005	4.0600e-003	0.6315	0.6355	2.7000e-004	0.0000	0.6419

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

3.0 Construction Detail

Construction Phase

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Site Preparation	Site Preparation	6/5/2017	6/9/2017	5	5	
2	Creek Restoration	Grading	6/12/2017	8/18/2017	5	50	

Acres of Grading (Site Preparation Phase): 2.5

Acres of Grading (Grading Phase): 0

Acres of Paving: 0

Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0 (Architectural Coating – sqft)

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Site Preparation	Graders	1	8.00	174	0.41
Site Preparation	Tractors/Loaders/Backhoes	1	8.00	97	0.37
Creek Restoration	Concrete/Industrial Saws	1	8.00	81	0.73
Creek Restoration	Excavators	1	8.00	174	0.41
Creek Restoration	Graders	1	4.00	174	0.41
Creek Restoration	Rubber Tired Dozers	1	1.00	255	0.40
Creek Restoration	Tractors/Loaders/Backhoes	2	6.00	97	0.37

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Site Preparation	2	5.00	0.00	0.00	16.80	6.60	20.00	LD_Mix	HDT_Mix	HHDT
Creek Restoration	6	15.00	0.00	85.00	16.80	6.60	40.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

3.2 Site Preparation - 2017

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					1.3300e-003	0.0000	1.3300e-003	1.4000e-004	0.0000	1.4000e-004	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	3.1700e-003	0.0317	0.0181	2.0000e-005		1.9300e-003	1.9300e-003		1.7700e-003	1.7700e-003	0.0000	2.1679	2.1679	6.6000e-004	0.0000	2.1818
Total	3.1700e-003	0.0317	0.0181	2.0000e-005	1.3300e-003	1.9300e-003	3.2600e-003	1.4000e-004	1.7700e-003	1.9100e-003	0.0000	2.1679	2.1679	6.6000e-004	0.0000	2.1818

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.0000e-005	1.1000e-004	1.0200e-003	0.0000	1.5000e-004	0.0000	1.5000e-004	4.0000e-005	0.0000	4.0000e-005	0.0000	0.1303	0.1303	1.0000e-005	0.0000	0.1305
Total	7.0000e-005	1.1000e-004	1.0200e-003	0.0000	1.5000e-004	0.0000	1.5000e-004	4.0000e-005	0.0000	4.0000e-005	0.0000	0.1303	0.1303	1.0000e-005	0.0000	0.1305

3.2 Site Preparation - 2017

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					1.3300e-003	0.0000	1.3300e-003	1.4000e-004	0.0000	1.4000e-004	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	3.1700e-003	0.0317	0.0181	2.0000e-005		1.9300e-003	1.9300e-003		1.7700e-003	1.7700e-003	0.0000	2.1679	2.1679	6.6000e-004	0.0000	2.1818
Total	3.1700e-003	0.0317	0.0181	2.0000e-005	1.3300e-003	1.9300e-003	3.2600e-003	1.4000e-004	1.7700e-003	1.9100e-003	0.0000	2.1679	2.1679	6.6000e-004	0.0000	2.1818

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.0000e-005	1.1000e-004	1.0200e-003	0.0000	1.5000e-004	0.0000	1.5000e-004	4.0000e-005	0.0000	4.0000e-005	0.0000	0.1303	0.1303	1.0000e-005	0.0000	0.1305
Total	7.0000e-005	1.1000e-004	1.0200e-003	0.0000	1.5000e-004	0.0000	1.5000e-004	4.0000e-005	0.0000	4.0000e-005	0.0000	0.1303	0.1303	1.0000e-005	0.0000	0.1305

3.3 Creek Restoration - 2017

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0190	0.0000	0.0190	0.0104	0.0000	0.0104	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0525	0.4988	0.3742	5.3000e-004		0.0307	0.0307		0.0288	0.0288	0.0000	48.3045	48.3045	0.0119	0.0000	48.5537
Total	0.0525	0.4988	0.3742	5.3000e-004	0.0190	0.0307	0.0496	0.0104	0.0288	0.0392	0.0000	48.3045	48.3045	0.0119	0.0000	48.5537

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	1.7100e-003	0.0204	0.0179	6.0000e-005	1.4200e-003	3.1000e-004	1.7400e-003	3.9000e-004	2.9000e-004	6.8000e-004	0.0000	5.6428	5.6428	4.0000e-005	0.0000	5.6436
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	2.0400e-003	3.3300e-003	0.0305	5.0000e-005	4.5800e-003	4.0000e-005	4.6300e-003	1.2200e-003	4.0000e-005	1.2600e-003	0.0000	3.9096	3.9096	2.4000e-004	0.0000	3.9146
Total	3.7500e-003	0.0238	0.0484	1.1000e-004	6.0000e-003	3.5000e-004	6.3700e-003	1.6100e-003	3.3000e-004	1.9400e-003	0.0000	9.5524	9.5524	2.8000e-004	0.0000	9.5582

3.3 Creek Restoration - 2017

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0190	0.0000	0.0190	0.0104	0.0000	0.0104	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0525	0.4988	0.3742	5.3000e-004		0.0307	0.0307		0.0288	0.0288	0.0000	48.3045	48.3045	0.0119	0.0000	48.5536
Total	0.0525	0.4988	0.3742	5.3000e-004	0.0190	0.0307	0.0496	0.0104	0.0288	0.0392	0.0000	48.3045	48.3045	0.0119	0.0000	48.5536

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	1.7100e-003	0.0204	0.0179	6.0000e-005	1.4200e-003	3.1000e-004	1.7400e-003	3.9000e-004	2.9000e-004	6.8000e-004	0.0000	5.6428	5.6428	4.0000e-005	0.0000	5.6436
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	2.0400e-003	3.3300e-003	0.0305	5.0000e-005	4.5800e-003	4.0000e-005	4.6300e-003	1.2200e-003	4.0000e-005	1.2600e-003	0.0000	3.9096	3.9096	2.4000e-004	0.0000	3.9146
Total	3.7500e-003	0.0238	0.0484	1.1000e-004	6.0000e-003	3.5000e-004	6.3700e-003	1.6100e-003	3.3000e-004	1.9400e-003	0.0000	9.5524	9.5524	2.8000e-004	0.0000	9.5582

4.0 Operational Detail - Mobile

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Appendix B Native American Correspondence
November 7, 2016

Appendix B NATIVE AMERICAN CORRESPONDENCE

NEVADA CITY PLANNING DEPARTMENT

City Hall
317 Broad Street
Nevada City CA 95959-8617
Fax No: (530) 265-9851

INITIAL DISTRIBUTION / PROJECT DESCRIPTION

DATE: August 31, 2016

TO: Colfax-Todds Valley Consolidated Tribe – Judith Marks
Colfax-Todds Valley Consolidated Tribe – Pamela Cubbler
Washoe Tribe of Nevada and California - Darrel Kizer
United Auburn Indian Community of
the Auburn Rancheria - Gene Whitehouse

Nevada City Rancheria Tribal Council
T'si-Akim Maidu - Grayson Coney
T'si-Akim Maidu - Don Ryberg

Nevada City is preparing an environmental document pursuant to the California Environmental Quality Act (CEQA) to restore the portion of Little Deer Creek that flows through Pioneer Park. As part of the application process the City is required to consult with local Native American groups. This project is being distributed to you for your review and comment. Your comments and/or conditions are requested by **Wednesday, September 21, 2016**. In addition to sending a signed copy, **please e-mail** a digital copy, to the City Planner and/or Parks and Recreation Supervisor listed below. If you need additional information to complete your review, please contact City staff before the comment deadline.

PROJECT: The purpose of the proposed Project is to restore Little Deer Creek to a more stable and natural condition (e.g., flows, floodplain, and riparian) as it moves through Pioneer Park. Another vital concern at the site is the relatively high levels of arsenic in the Lower Field soil. The overall proposal will involve the following:

- Remove existing concrete channel lining that confines Little Deer Creek, thus widening the stream channel and reconnecting it to its original floodplain;
- Re-vegetate and restore the area with native plants;
- Increase Pioneer Park's recreational value by reducing annual flooding;
- Create accessibility through the construction of a "Roll and Stroll" trail, which will also enhance community enjoyment and the use of Little Deer Creek and Pioneer Park;
- Improve urban stream health and water quality management issues
- Removal and disposal of arsenic impacted soil. Clean fill material would then be placed and compacted in the newly graded portions of the stream channel to minimize public exposure and improve water quality

APPLICANT: City of Nevada City

OWNER: City of Nevada City

APNs: 05-440-02 & 05-460-17 **FILE NAME:** Little Deer Creek Resoration

LOCATION: Pioneer Park is located along the eastern bounds of the City with its main access driveways coming off of Nimrod Street and Park Avenue.

General Plan:	Public	Water:	City Water
Region:	Nevada City	Sewage:	City Sewer
Zoning:	Public	Fire:	Nevada City Fire Dist
Flood Map:	369 Zone X	Schools:	Nevada City School Dist
ZDM #:	124	Recreation:	Nevada City Park & Rec District
Parcel Size:	54.66 & 79.08 acres	Sup. Dist.:	Nate Beeson, District I
Prev. File #(s):	PM78-203, RS09-037	Date Filed:	11/10/2015
Farmland Map Designation:	Urban, Built-up		

CITY PLANNER: Amy Wolfson
(530) 265-2496 ext.130 Email: amy.wolfson@nevadacityca.gov

PARKS & RECREATION SUPERVISOR: Dawn Zydonis
(530) 265-2496 ext.130 Email: dawn.zydonis@nevadacityca.gov



City of Nevada City

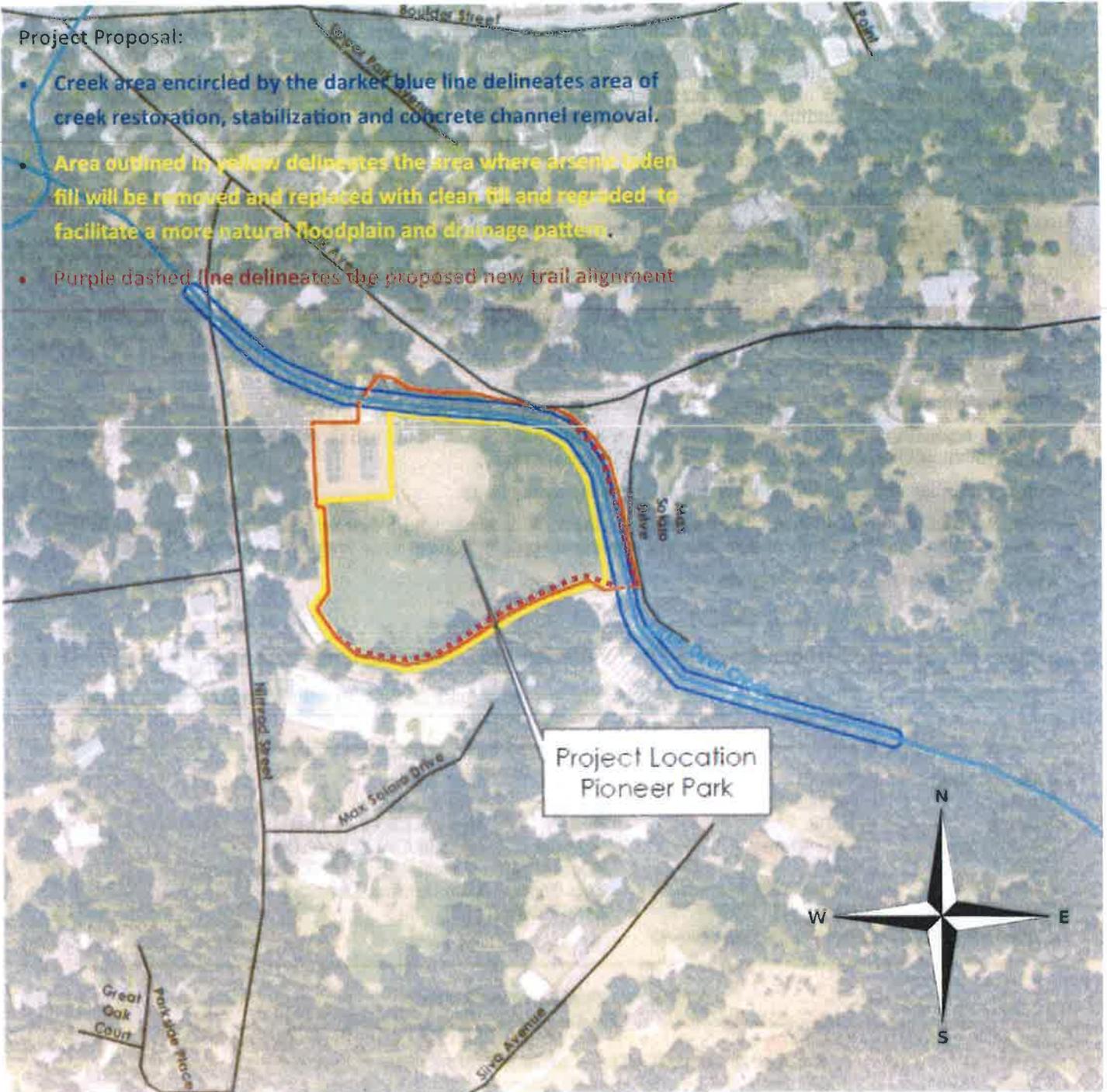
Little Deer Creek Restoration Project at Pioneer Park



Location: Pioneer Park, Nevada City; Corner of Park Avenue and Max Solano Drive; Latitude, Longitude: 39.2600, -121.0109

Project Proposal:

- Creek area encircled by the darker blue line delineates area of creek restoration, stabilization and concrete channel removal.
- Area outlined in yellow delineates the area where arsenic laden fill will be removed and replaced with clean fill and regraded to facilitate a more natural floodplain and drainage pattern.
- Purple dashed line delineates the proposed new trail alignment





MIWOK United Auburn Indian Community
 MAIDU of the Auburn Rancheria

Gene Whitehouse
 Chairman

John L. Williams
 Vice Chairman

Danny Rey
 Secretary

Jason Camp
 Treasurer

Calvin Moman
 Council Member

September 14, 2016

Any Wolfson
 Nevada City Planning Department
 317 Broad Street
 Nevada City, CA 95959

Subject: Little Deer Creek Resoration Project

Dear Any Wolfson,

Thank you for requesting information regarding the above referenced project. The United Auburn Indian Community (UAIC) of the Auburn Rancheria is comprised of Miwok and Southern Maidu (Nisenan) people whose tribal lands are within Placer County and whose service area includes El Dorado, Nevada, Placer, Sacramento, Sutter, and Yuba counties. The UAIC is concerned about development within its aboriginal territory that has potential to impact the lifeways, cultural sites, and landscapes that may be of sacred or ceremonial significance. We appreciate the opportunity to comment on this and other projects in your jurisdiction. The UAIC would like to consult on this project.

In order to ascertain whether the project could affect cultural resources that may be of importance to the UAIC, we would like to receive copies of any archaeological reports that are completed for the project. We also request copies of future environmental documents for the proposed project so that we have the opportunity to comment on potential impacts and proposed mitigation measures related to cultural resources. The UAIC would also like the opportunity to have our tribal monitors accompany you during the field survey. The information gathered will provide us with a better understanding of the project and cultural resources on site and is invaluable for consultation purposes.

The UAIC's preservation committee has identified cultural resources in and around your project area, and would like to recommend that a tribal monitor be present during any ground disturbing activities. Thank you again for taking these matters into consideration, and for involving the UAIC early in the planning process. We look forward to reviewing the documents requested above and consulting on your project. Please contact Marcos Guerrero, Cultural Resources Manager, at (530) 883-2364 or by email at mguerrero@auburnrancheria.com if you have any questions.

Sincerely,

Gene Whitehouse,
 Chairman

CC: Marcos Guerrero, CRM

From: Dawn Zydonis

Sent: Monday, October 24, 2016 3:55 PM

To: 'mguerrero@auburnrancheria.com' <mguerrero@auburnrancheria.com>

Cc: Kyle Leach <kleach08@gmail.com>

Subject: Little Deer Creek Restoration Project

Marcos

I am writing in response to the letter the City of Nevada City received from the United Auburn Indian Community related to a project that we are doing in our City park. UAIC requested to have a tribal monitor present during any ground disturbing activities. We thought it might be helpful to show you the site prior to that time. Please let me know when you are available to meet with regarding this project. Kyle Leach from Sierra Streams Institute would be joining us. They are our partners on this project and Kyle is the Project Manager and can answer questions about the work to be completed.

We look forward to hearing from you.

Thank you

Dawn

Dawn Zydonis

Parks & Recreation Supervisor

317 Broad St. Nevada City, CA 95959

530-265-2496 x129

530-265-0187 (f)

www.nevadacityca.gov

From: Dawn Zydonis
Sent: Tuesday, November 01, 2016 9:18 AM
To: 'mguerrero@auburnrancheria.com' <mguerrero@auburnrancheria.com>
Cc: 'Kyle' <kleach08@gmail.com>
Subject: Little Deer Creek Restoration Project

Marcos

This email is a follow up to an email that I sent on October 24th. The UAIC has made several requests related to our project (Little Deer Creek Restoration Project) in Nevada City.

1. UAIC would like to receive copies of any archaeological reports that are completed for the project.
2. UAIC requested copies of future environmental documents for the proposed project.
3. UAIC would like tribal monitors to be present during the field survey.
4. UAIC requested that a tribal monitor be present during any ground disturbing activities.

#1 & #2, are included in the CEQA document that we are currently working on and trying to complete by the end of this week. However, we must attempt to communicate with you about your concerns prior to completing those documents.

#3, the Field Survey has already been completed. Kyle Leach (our project partner) and I would be happy to do a site visit with you to review the project.

#4. Your tribal monitor is welcome to be on site during any ground disturbance. This will not take place until next year, so we will keep in touch with you to let you know when that will be taking place.

I look forward to hearing from you, so that we can finalize our DRAFT CEQA document and make it available to you for review.

Dawn Zydonis

Dawn Zydonis
Parks & Recreation Supervisor
317 Broad St. Nevada City, CA 95959
530-265-2496 x129
530-265-0187 (f)
www.nevadacityca.gov

LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

Appendix C Site Characterization Report
November 7, 2016

Appendix C SITE CHARACTERIZATION REPORT

SITE CHARACTERIZATION REPORT

**Little Deer Creek, Pioneer Park
Restoration and Flood Mitigation Project
Nevada City, California**

Prepared by:

Sierra Streams Institute
431 Uren Street, Suite C
Nevada City, California 95959

August 2016

August 4, 2016

California Department of Water Resources
DIRWM - Northern Region
2440 Main Street,
Red Bluff, California, 96080

Attention: Mr. Kevin Pond

Project: Little Deer Creek Pioneer Park Restoration
Pioneer Park
Nevada City, California

Transmittal: Site Characterization Report

Dear Mr. Pond:

Sierra Streams Institute prepared this Site Characterization Report for the Little Deer Creek Pioneer Park Restoration Project located at Pioneer Park in Nevada City, California. This report summarizes previous soil investigations at the site and presents the results of recent soil sampling and metals analysis in areas adjacent to Little Deer Creek at Pioneer Park. Characterization of site soil was performed to facilitate project planning, permitting and cost estimates. The report also summarizes the results of over 10 years of surface water quality monitoring including recent stormwater sampling and metals analysis performed by Sierra Streams Institute as well as six years of biological monitoring of the site.

If you have any questions regarding this Report please contact the undersigned.

Sincerely,

Sierra Streams Institute


Kyle Leach, P.G. 7108
Project Geologist



copies: 1 Nevada City/Attn: Mark Prestwich
1 Central Valley Regional Water Quality Control Board/Attn: Elizabeth Lee

INTRODUCTION

The City of Nevada City and Sierra Streams Institute (SSI) are managing the proposed Little Deer Creek/Pioneer Park Restoration and Flood Mitigation Project located at Pioneer Park in Nevada City, California (Figure 1 - Project Location Map). The project is funded by a Grant awarded to the City and SSI by the California Department of Water Resources (DWR) under the Urban Streams Restoration Program, Water Code 7048. The scope of the project includes restoration of Little Deer Creek, a tributary of Deer Creek, in the reach passing through Pioneer Park by removing concrete channelization, channel widening and placement of rock armoring to protect from scour and enhance habitat. The project also proposes to remove a soil berm currently located along the creek adjacent to the lower playing field to improve drainage and create an accessible flood plain. The lower playing field will also be regraded to improve drainage with associated irrigation system upgrades and turf replacement. A trail will also be completed around the playing field and stream restoration areas.

This Site Characterization Report presents a review of site history, summarizes the results of previous environmental assessments and restoration efforts at Pioneer Park, and presents the results of additional soil sampling performed in 2016 to complete a characterization of environmental conditions at the site. The Report also summarizes previous monitoring of Little Deer Creek and presents the results of additional surface water sampling and metals analysis during storm events and during a period of relatively low flow prior project implementation. The report also presents the results of biological monitoring of Little Deer Creek including benthic macroinvertebrate and algae sampling results and evaluation.

Site History

Longtime residents of Nevada City reported that prior to construction of Pioneer Park in the 1950's, Little Deer Creek flowed through the middle of what is now the lower playing field. When Pioneer Park was developed, imported fill soil was used to fill the Little Deer Creek stream channel and grade the lower field. The stream was relocated around the eastern and northern perimeter of the field and confined within a concrete lined channel. A soil berm was also constructed along the eastern edge of the field to control flooding. The borrow source for the fill material was reportedly a site approximately one mile southeast of the park. Soil used for fill consisted of reddish brown clayey loam soil which may have been overburden from an abandoned mine. Elevated arsenic is a common constituent of mine waste in the local area.

SOIL ASSESSMENT RESULTS

Previous Soil Sampling and Analytical Results

SSI reviewed the results of an unpublished investigation of soil and stream bank conditions at the site conducted by GeoTrans in 2003. Thirty six soil samples were obtained from the berm and stream banks of Little Deer Creek, mostly between the river right side of the stream and the adjacent field where restoration activities had been proposed. All samples were analyzed for total arsenic. Twelve samples were also analyzed for total lead and mercury. Results of 36 samples analyzed for total arsenic indicated concentrations ranging from less than 2.4 milligrams per kilogram (mg/kg) to 155 mg/kg. The mean arsenic concentration was 46.5 mg/kg. Results of 12 samples analyzed for total

lead ranged from 13.3 mg/kg to 39.8 mg/kg with a mean of 24.6 mg/kg. Results of 12 samples analyzed for total mercury ranged from 0.11 mg/kg to 0.66 mg/kg with a mean of 0.34 mg/kg. One sample with a total arsenic concentration of 78 mg/kg was analyzed for soluble arsenic by the Waste Extraction Test (WET) Method using deionized (DI) water as the extractant solution. Results were non-detect with a reporting limit of 0.10 milligrams per liter (mg/L). These results indicate total arsenic is a constituent of concern (COC) in site soil. Based on this unpublished investigation, Geotrans recommended that proposed stream restoration activities involving excavation of stream bank soil not be implemented due to “unacceptable levels of arsenic”. Subsequent restoration work at the park conducted in 2003/2004 by Friends of Deer Creek included planting of native willows and other trees and shrubs.

Friend of Deer Creek conducted soil sampling at the lower play field at Pioneer Park as part of a US EPA Brownfields Community Wide Assessment of City owned properties conducted in 2006-2009 (City of Nevada City, 2010). Twenty four soil samples were obtained from near surface soil in the field and screened for total metals. Based on results indicating elevated arsenic concentrations, EPA staff analyzed eight duplicate samples for total arsenic, lead and chromium by EPA Method 6010B. Total arsenic results ranged from 7.9 mg/kg to 100 mg/kg with a mean concentration of 63.2 mg/kg. Total lead ranged from 5.6 to 24 with a mean of 15.1. Total chromium ranged from 21 mg/kg to 35 mg/kg with a mean of 28 mg/kg. These results indicate total arsenic is a COC in near surface soil in the lower play field at Pioneer Park.

2016 Soil Sampling

Soil samples were obtained in spring 2016 from the stream sediment and banks of Little Deer Creek in areas of the proposed stream restoration in order to complete a preliminary characterization of soil conditions to inform design, permitting and cost estimations. Samples were obtained using decontaminated hand tools, placed in glass jars stored in coolers and transported to EPA certified analytical laboratories. A California Professional Geologist oversaw all soil sampling and analysis, evaluated initial sample results to determine where additional sampling was necessary and selected samples for further analysis as described below.

A total of 22 discrete soil samples and three duplicate samples were obtained from the locations described below. Sample locations are indicated on the Sample Location Map (Figure 2).

Five sediment samples (Sample ID prefix “SS”) were obtained from the upper 6-inches of mobile sediment within the active stream channel. Samples were obtained from sediment at regular intervals within, upstream and downstream of the proposed channel modification areas.

Four soil samples and one field duplicate sample were obtained along concrete channelization segments (Sample prefix “CS”) to determine metals concentrations in soil immediately adjacent to the concrete proposed to be removed during the restoration project. Samples were obtained from soil adjacent to the outside edge of the concrete currently situated along the right and left banks of the stream at depths ranging from 0.75 to 1.5 feet below ground surface (bgs).

Three soil samples were obtained from the soil berm (Sample prefix “BS”) located along the river left bank of the creek in the upstream portion of the proposed channel modification area. Samples were obtained from depths of approximately 2.0 to 2.5 feet in the berm soil to confirm the results of previous sampling indicating elevated arsenic in berm and fill soil.

Three soil samples and one field duplicate sample were also obtained from the proposed new stream bank location on river left (Sample prefix “RL”) in the proposed channel modification areas. Samples were obtained from depths of approximately 1.5 to 2.0 feet bgs to confirm the results of previous sampling indicating elevated arsenic in fill soil in these areas.

Three soil samples were also obtained from the river right stream bank (Sample name prefix “RR”). Samples were obtained at the approximate ordinary high water elevation where erosion potential is relatively high at depths between 0.25 and 0.5 feet bgs.

Four soil samples and one field duplicate sample were also obtained from a proposed trail alignment that was initially proposed to be graded upslope of the river right side of Little Deer Creek between the creek and Park Avenue. Samples were obtained at depths of 0.5 to 1.0 feet bgs.

Soil Sample Analysis

All samples including three field duplicate samples and one laboratory split sample were analyzed for total arsenic by EPA Method 6010B (Table 1). Four selected samples (one stream sediment sample, one soil sample from each side of the creek and one trail sample) with relatively high arsenic concentrations were also analyzed for Title 22 Metals by EPA Method 6010/7474 to determine if other metal COCs are present (Table 2). Two soil samples with the highest total arsenic concentration likely to be left in place after restoration (one on each side of the creek) were also analyzed for soluble arsenic using the de-ionized water waste extraction test (DI WET) method (Table 1). A second selected sample of soil with an above average arsenic concentration at a representative location where soil is likely to be excavated and disposed of off-site was also analyzed for soluble arsenic by the STLC Standard WET Method (Table 2).

Soil Sample Analytical Results and Discussion

Total Arsenic

Five stream sediment samples were analyzed for total arsenic by EPA Method 6010B. Results ranged from 27 mg/kg to 69 mg/kg with a mean concentration of 42 mg/kg (Table 1).

A total of 13 stream bank soil samples were analyzed for total arsenic. Analysis was also performed on two field duplicates and one laboratory split sample. Results ranged from 4.7 mg/kg to 106 mg/kg with a mean concentration of 55 mg/kg (Table 1).

A total of five soil samples from a proposed trail alignment were analyzed for total arsenic. One field duplicate and one laboratory split sample were also analyzed. Results ranged from 34 mg/kg to 310 mg/kg with a mean concentration of 136 mg/kg (Table 1).

Total arsenic results for all samples analyzed exceeded the Regional Screening Levels (RSLs) established by US EPA (0.68 mg/kg) and California Department of Toxic Substances Control (DTSC) modified RSLs (0.067 mg/kg) (Table 1). Nearly all of the samples also exceed typical background arsenic concentrations in soil in the Nevada County area which range up to 20 mg/kg or higher.

Title 22 Metals

Analytical results for each of the Title 22 metals were compared with Regional Screening Levels (RSLs) established by US EPA and California Department of Toxic Substances Control (DTSC) modified RSLs (if established) (Table 2). Results indicated that with the exception of total arsenic, no Title 22 metal analytes exceeded EPA or DTSC RSLs (Table 2).

Soluble Arsenic

Arsenic solubility by the DI WET Method for sample CS-10d, obtained adjacent to the concrete channelization structure on river right indicated soluble arsenic at 37.5 micrograms per Liter (ug/L) (Table 1). Results of sample RL-19d, obtained from the approximate location of the river left stream bank after the proposed channel widening, were non-detect with a laboratory reporting limit of 10 ug/L (Table 1). These results were compared with the Maximum Contaminant Level (MCL) established for arsenic in drinking water of 10 ug/L. Sample CS-10d exceeded the MCL and sample RL-19d did not exceed the MCL.

STLC Standard WET Method results for sample BS-6 (with a total arsenic concentration of 106 mg/kg) indicated soluble arsenic at 0.8 milligrams per liter (mg/L) (Table 1). These results were compared to the Soluble Threshold Limit Concentration (STLC) for arsenic to determine likely off-site disposal outcomes. Results were significantly lower than the STLC (500 mg/L) indicating excavated soil is not likely to be characterized as Soluble Hazardous Waste. In addition, total arsenic concentrations detected in soil likely to be excavated and disposed of off-site were all below the total Threshold Limit Concentration (TTLC) for arsenic of 500 mg/kg, indicating excavated soil will not likely be characterized as Hazardous Waste.

WATER SAMPLING RESULTS

Water Quality Monitoring Background and Methods

Sierra Streams Institute monitors ambient water quality at eighteen long-term monitoring sites in the Deer Creek watershed, including at three sites on Little Deer Creek in the vicinity of the project site (Figure 1). Water quality monitoring takes place once a month at each site, with samples collected at the same time of day during each monitoring event. Standard water quality parameters are monitored in the field during each site visit, including specific conductivity, dissolved oxygen, pH, turbidity, and water temperature. In addition to the parameters measured in the field, water samples

are collected at each site for processing at the Sierra Streams Institute lab. Water samples are collected and processed for Bacteria (Total Coliform, *E. coli*) and Nutrients (Orthophosphate, Nitrate).

Water quality monitoring and lab sample processing follows the methods and standards outlined in the Water Monitoring Quality Assurance Project Plan (QAPP) for the Yuba Watershed Council Monitoring Committee (Yuba Watershed Monitoring Committee, 2008). Sierra Streams Institute participates in the Yuba Watershed Council Monitoring Committee as a member group.

Water Quality Monitoring Results and Discussion

To evaluate the pre-project baseline environmental conditions in Little Deer Creek and at the project site, water quality monitoring data from 2010 – 2015 was analyzed. Data was analyzed for Site 13 upstream of Pioneer Park, Site 12 within Pioneer Park, and Site 11 downstream of Pioneer Park.

The results presented in Table 3 represent average values from data collected on a monthly basis between 2010 and 2015 at three sites on Little Deer Creek. A summary of results is provided below:

- pH values at each site were less than the Basin Plan Objective of 6.5 – 8.5, with average values between 6.30 and 6.47. Site 13 upstream of Pioneer Park had the lowest average pH value, with the highest average pH value occurring at Site 12 within Pioneer Park.
- Specific Conductivity values at all sites were below the Secondary Maximum Contaminant Level standard used by the Regional Water Quality Control Board to evaluate inland water quality, with values between 42.9 and 48.3 $\mu\text{S}/\text{cm}$. Conductivity values increase from upstream to downstream, with Site 13 exhibiting the lowest average conductivity values and Site 11 the highest average conductivity values.
- Dissolved Oxygen values were greater than the Basin Plan Objective at each site, with values between 9.95 and 10.27 mg/L at the three sites. Dissolved oxygen levels at each site reflect suitable oxygenation levels for native aquatic species.
- Average water temperature values at each site indicated suitable water temperatures for cold water aquatic species, with average water temperatures between 9.7 and 10.8 °C, and maximum temperature values (not shown) below the Basin Plan Objective for the Bay-Delta for water temperature. Average water temperatures increase from upstream to downstream, with the lowest values observed at Site 13 upstream of Pioneer Park and the highest water temperatures observed at Site 11 downstream of Pioneer Park.
- Nitrate concentrations at each site were below the Primary Maximum Contaminant Level guideline of 10.0 mg/L, with average values between 0.09 – 0.14 mg/L across the sites. Average nitrate concentrations increase from upstream to downstream, with the lowest values observed at Site 13 upstream of Pioneer Park and the highest values observed at Site 11 downstream of Pioneer Park.
- There are no applicable Water Quality Guidelines for turbidity and orthophosphate, although these values are low compared to other sites within the Deer Creek and Yuba River watershed with known sediment or nutrient issues.

Constituent	Water Quality Guideline	Site 11	Site 12	Site 13
pH	6.5 - 8.5 (Basin Plan Objective) ²	6.44	6.47	6.30
Conductivity (µS/cm)	≤ 900.0 µS/cm (Secondary Maximum Contaminant Level) ¹	48.3	43.7	42.9
Dissolved Oxygen (mg/L)	≥ 7.0 mg/L (Basin Plan Objective) ²	10.27	10.27	9.95
Water Temperature (°C)	≤ 20.0°C (Basin Plan Objective for Bay-Delta) ²	10.8	10.0	9.7
Turbidity (NTU)	N/A	2.6	2.1	3.1
Nitrate (mg/L)	10 mg/L (Primary Maximum Contaminant Level) ¹	0.14	0.1	0.09
Orthophosphate (mg/L)	N/A	0.06	0.05	0.04
	¹ Drinking Water ² Aquatic Life			

Table 3: Water quality data summary for Sites 11, 12, and 13 on Little Deer Creek in Nevada City, using monthly water quality data. Average values from 2010-2015 are presented for each site and constituent, and are compared against an applicable water quality guideline, if available.

Heavy Metal Sampling of Surface Water Background and Methods

Sierra Streams Institute monitors surface water quality, suspended sediment, and heavy metals during runoff and storm events each year. As part of the pre-project baseline monitoring for this project, water samples were collected during storm events in the winter and spring of 2015-16. Water quality measurements and water samples were collected at three sites on Little Deer Creek including Site 13 upstream of Pioneer Park, Site 12 within Pioneer Park, and Site 11 downstream of Pioneer Park. Basic water quality parameters were measured in the field during each sampling event, including pH, dissolved oxygen, specific conductivity, water temperature, and turbidity. Storm water samples were collected for Total Suspended Solids (TSS) and heavy metals analysis. Water samples were processed for TSS at the Sierra Streams Institute lab, and water samples for heavy metal analysis were analyzed for total recoverable Arsenic, Cadmium, Lead, and Mercury at a US EPA-certified laboratory.

Water quality monitoring, storm sampling, and lab sample processing follows the methods and standards outlined in the Water Monitoring Quality Assurance Project Plan (QAPP) for the Yuba Watershed Council Monitoring Committee (Yuba Watershed Monitoring Committee, 2008).

Heavy Metal Sampling of Surface Water Results and Discussion

During the winter and spring of 2016, a total of four samples were collected between January and June. Three samples were collected during storm events in January and March, and one sample was collected during dry weather baseflow conditions in June 2016. The results of water quality sampling and heavy metal analysis are provided in Table 4.

The results in Table 4 show turbidity, total suspended solids (TSS), and heavy metal data for three sites on Little Deer Creek. The data reflects the general trend that as turbidity and TSS increase, heavy metal concentrations in the water column typically increased as well. The data shows that

Arsenic and Cadmium were detected in all three storm samples, but no constituents of concern were detected in the June baseflow sample. Constituents of concern were detected in samples collected upstream, within, and downstream of Pioneer Park. The highest concentrations of each constituent of concern were observed on 3/13/2016 during the largest storm event that was sampled. This was the only sampling event in which Mercury was detected in the samples.

Site	Date	Time	Turbidity (NTU)	TSS (mg/L)	As (µg/L)	Reporting Limit (µg/L)	Cd (µg/L)	Reporting Limit (µg/L)	Pb (µg/L)	Reporting Limit (µg/L)	Hg (µg/L)	Reporting Limit (µg/L)
11	1/29/16	13:22	7.07	12.2	6.8	2.0	2.1	1.0	2.4	2.0	ND	0.2
12	1/29/16	13:01	8.28	10.9	6.9	2.0	1.7	1.0	ND	2.0	ND	0.2
13	1/29/16	12:37	9.14	9.4	5.2	2.0	1.7	1.0	ND	2.0	ND	0.2
11	3/6/16	8:15	20.1	24.8	8.8	2.0	1.5	1.0	ND	2.0	-	-
12	3/6/16	7:50	22.9	28.2	6.5	2.0	3.7	1.0	ND	2.0	-	-
13	3/6/16	7:33	21.4	18.5	7.1	2.0	ND	1.0	ND	2.0	-	-
11	3/13/16	12:15	52.9	179.6	51.9	2.0	10.5	1.0	11.4	2.0	0.3	0.2
12	3/13/16	11:30	48.3	170.1	57.9	2.0	11.8	1.0	9.5	2.0	ND	0.2
13	3/13/16	11:10	43.6	167.1	53.3	2.0	11.5	1.0	8.0	2.0	ND	0.2
11	6/14/16	15:45	0.90	0.76	ND	10.0	ND	5.0	ND	5.0	-	-
12	6/14/16	15:15	1.1	0.76	ND	10.0	ND	5.0	ND	5.0	-	-
13	6/14/16	15:00	0.87	0.88	ND	10.0	ND	5.0	ND	5.0	-	-

Table 4: Results of water quality and heavy metal analysis for samples collected at three sites on Little Deer Creek. Values in red exceeded the MCL for the constituent of concern. ND = non-detect.

Results from the heavy metal sampling and analysis were compared against the Maximum Contaminant Level (MCL) for each constituent of concern in Table 5 (USEPA, 2016). Water samples collected on 3/13/2016 exceeded the MCL for Arsenic and Cadmium. This was the largest storm event of the water year. The MCL was not exceeded for any constituents of concern during storm events on 1/29/2016 and 3/6/2016, or during baseflow conditions on 6/14/2016.

Constituent	MCL (µg/L)
Arsenic	10
Cadmium	5
Lead	15
Mercury	2

Table 5: Maximum Contaminant Levels for each constituent of concern.

BIOLOGICAL SAMPLING RESULTS

Benthic Macroinvertebrates and Algae Background and Methods

Sierra Streams Institute monitors benthic macroinvertebrates and algae biomass at sixteen long-term monitoring sites in the Deer Creek watershed, including at three sites on Little Deer Creek in the vicinity of the project site (Figure 1). Benthic macroinvertebrate and algae sample collection takes place twice a year in June and October following standard methods developed by the State of

California Surface Water Ambient Monitoring Program (SWAMP) (Ode, 2007; Yuba Watershed Monitoring Committee, 2008; Fetscher et al., 2010). Macroinvertebrate and algae samples are processed and identified at the Sierra Streams Institute in-house lab following methods outlined by SWAMP and the Yuba Watershed Monitoring Committee, and undergo quality control and data review by a professional taxonomist (Ode, 2007; Yuba Watershed Monitoring Committee, 2008; Fetscher et al., 2010). Benthic macroinvertebrate data is evaluated using the Deer Creek Index of Biotic Integrity (IBI), a tool developed by Sierra Streams Institute for assessing the health of streams using benthic macroinvertebrate data (Bell, 2012). The Deer Creek Index of Biotic Integrity uses family-level macroinvertebrate data, and incorporates 8 metrics to classify stream health (Bell, 2012).

Benthic Macroinvertebrates and Algae Results and Discussion

To evaluate the pre-project baseline environmental conditions in Little Deer Creek and at the project site, benthic macroinvertebrate and algae monitoring data was analyzed. Benthic macroinvertebrate data from 2001 – 2012, and algae biomass data from 2012 – 2015 was used in the analysis. Benthic macroinvertebrate data is presented in Table 6 and shows the average Deer Creek IBI scores for each site on Little Deer Creek from 2001 – 2012. Table 7 shows the Stream Health Classification based on the Deer Creek IBI score (Bell, 2012). The following is a summary of the results presented in Table 6:

- Site 13, located upstream of Pioneer Park, had the highest average Deer Creek IBI score of 24.3, resulting in a stream health classification of Good.
- Site 12, located within Pioneer Park and the project area, had a Deer Creek IBI score of 19.8, resulting in a stream health classification of Marginal.
- Site 11, located downstream of Pioneer Park, scored an 18.7 on the Deer Creek IBI, resulting in a stream health classification of Marginal.

Site	Deer Creek IBI Score
11	18.7
12	19.8
13	24.3

Table 6: Average Deer Creek Index of Biotic Integrity score from 2001-2011 for each site (Bell, 2012).

IBI Score	Stream Health
<16	Poor
<22	Marginal
<27	Good
≥ 27	Very Good

Table 7: Generalized stream health classification, based on the Deer Creek IBI score (Bell, 2012).

The results of the benthic macroinvertebrate analysis indicate there is a trend of decreasing IBI scores from upstream to downstream. IBI scores decrease as Little Deer Creek flows through Pioneer Park from Site 13 to Site 11, reflecting a change in stream health as you move downstream. The low Deer Creek IBI score and Marginal stream health classification at Site 12 within Pioneer Park could be attributed to several factors including the presence of concrete and rip rap located on the banks and within the creek channel around the site, the confined and narrow channelized stream channel, and a lack of riparian and floodplain habitat along the creek.

Algae biomass data is presented in Table 8 and shows the average algae biomass in grams per square meter (g/m²) at each site on Little Deer Creek from 2012 – 2015. Algae biomass sample

collection takes place twice a year in June and October, as part of paired sampling with benthic macroinvertebrate sample collection (Fetscher et al., 2010).

Site	Algae Biomass (g/m ²)
11	39.6
12	14.6
13	30.4

Table 8: Average algae biomass from 2012-2015 for each site on Little Deer Creek.

The results of the algae biomass analysis indicate that algae biomass values are higher on average upstream and downstream of Pioneer Park, compared to Site 12 within Pioneer Park. It should be noted that there is considerable seasonal and annual variability in algae biomass at each site, with no clear trends identified for the sites on Little Deer Creek.

Conclusions and Recommendations

Based on the results of soil, water, and biological sampling the following general conclusions and recommendations are presented regarding the site:

Arsenic is the primary constituent of concern in site soil. No other title 22 metals exceeded applicable regulatory standards.

Soil excavated during stream channel widening will likely require special handling, characterization and off-site disposal at a Class 2 landfill facility.

Soil in the originally proposed trail alignment exceeds levels likely to be acceptable for use in cut and fill type trail construction. Based on these results the originally proposed trail alignment (crossing a steep, thickly vegetated slope) was abandoned and a new alignment (as described in the CEQA Project Description) will involve clean imported fill placement with no significant soil excavation in this area.

Soil with elevated arsenic concentrations proposed to be left in place in the widened stream banks should be engineered to protect from stream scour by placement of rock armoring and woody materials in areas of high scour and or smaller rock or gravel fill placement in areas of relatively low scour. Grain size shall be determined by the Engineer based on a hydrological analysis. Alternatively some of the existing concrete channel lining may be left in place where necessary to minimize scour.

Surface water metals analytical results indicated elevated arsenic, cadmium and to a limited extent lead and mercury during storm events. Elevated metals concentrations generally correspond to higher total suspended solids and turbidity values. Detected results did not exceed MCLs except for arsenic and cadmium in the March 13, 2016 event, which was the largest storm event of the season. Metals were not detected above laboratory reporting limits during the base flow sampling event in June 2016, when flow levels were similar to those anticipated during the proposed project implementation.

Comparison of surface water metals sample results from upstream, onsite and downstream (sites 13, 12 and 11 respectively) did not indicate a consistent trend of increasing metals concentrations in the downstream direction. Thus erosion of sediment from the Pioneer Park site does not appear to be the

primary source of the loading of metals in stormwater samples. As the site is located in the lower portion of the Little Deer Creek watershed downstream of numerous abandoned mine sites, the bulk of the arsenic and cadmium loading is likely due to sediment transport of mine waste from upstream sources.

Surface water sampling and metals analysis should continue prior to, during and after the proposed project implementation. Long-term monitoring at sites on Little Deer Creek including surface water quality, benthic macroinvertebrate, and algae monitoring, should continue for several years following project completion. This data will be useful for evaluating the effects of the project on surface water quality and aquatic communities in Little Deer Creek, and potential long-term benefits associated with restoration activities.

Name and Contact Information for Supervising Personnel

Justin Wood, River Scientist
Sierra Streams Institute
431 Uren Street, Suite C
Nevada City, CA 95959
530-265-6090 x204
justin@sierrastreamsinstitute.org

Joanne Hild, Executive Director
Sierra Streams Institute
431 Uren Street, Suite C
Nevada City, CA 95959
530-265-6090 x200
joanne@sierrastreamsinstitute.org

Kyle Leach PG, Geologist
Sierra Streams Institute
431 Uren Street, Suite C
Nevada City, CA 95959
530-265-6090 x203
kyle@sierrastreamsinstitute.org

References

Bell, A. 2012. Development of an Index of Biotic Integrity (IBI) for Deer Creek, Nevada County, California: Family-level IBI for citizen-science bioassessment.

City of Nevada City. 2010. City of Nevada City Community Wide Brownfields Assessment: Pioneer Park Phase II Assessment.

Fetscher, E., Busse, L., Ode, P. 2010. Standard Operating Procedures for Collecting Stream Algae Samples and Associated Physical Habitat and Chemical Data for Ambient Bioassessments in California. Surface Water Ambient Monitoring Program Bioassessment Procedures.

Ode, P. 2007. Standard Operating Procedures for Collecting Benthic Macroinvertebrate Samples and Associated Physical and Chemical Data for Ambient Bioassessment in California, Surface Water Ambient Monitoring Program Bioassessment Procedures.

United States Environmental Protection Agency (USEPA). 2016. Regional Screening Levels (RSLs) – Generic Tables, accessed from <https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables-may-2016> on July 14, 2016.

Yuba Watershed Monitoring Committee. 2008. Water Monitoring Quality Assurance Project Plan for the Yuba Watershed Council Monitoring Committee: Citizen Water Monitoring Quality Assurance Project Plan for the Yuba Watershed Monitoring Committee.

Figure 1 Project Location Map



Figure 2 Sample Location Map



RESOLUTION NO. 2017-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, STATE OF CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION IN CONNECTION WITH APPROVAL OF THE LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT

WHEREAS, pursuant to the California Quality Act, California Public Resources Code Section 2100et seq. ("CEQA") and CEQA's implementing guidelines, California Code of Regulations, Title 147, Section 15000 et seq., and initial study was prepared and it has been determined that the proposed project qualifies for a Mitigated Negative Declaration because the proposed Project known as the "Little Deer Creek Restoration and Flood Mitigation Project" ("Project") with the proposed mitigation measures cannot, or will not, have a significant effect on the environment;

WHEREAS, City staff have reviewed the Initial Study/Mitigated Negative Declaration prepared by Stantec Consulting Services Inc. and Sierra Streams Institute for the Project and determined that it has been prepared in compliance with CEQA and CEQA's implementing guidelines;

WHEREAS, a Mitigation Monitoring Program has been prepared and is included within the Mitigated Negative Declaration as revised ("Final MND"); and

WHEREAS, a duly noticed Public Meeting was held by the City Council on January 11, 2017, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter during its meeting of January 11, 2017; and

WHEREAS, the City Council passed Resolution 2014-52 at their regular meeting on December 10, 2014 approving the joint application with Sierra Streams Institute for an Urban Streams Restoration Program grant, and authorizing the City Manager or his designee to accept and sign any contract or amendment for administration of the grant funds, and the Assistant City Manager or her designee to act as Project Manager for the project. We hereby delegate authority to the Project Manager to manage the Agreement including the submission of invoices, and to delegate authority to others to provide management and support services required for performance of the work and administration of the Agreement; and

WHEREAS, the Project is intended to help solve flooding and erosion problems in a way that provides environmental enhancement; and

WHEREAS, a Notice of Determination has been prepared for the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City as follows:

Section 1. Based on the review and determination of the Planning Department, the City Council of the City of Nevada City finds that the Project will not have a significant effect on the environment as determined by the Mitigated Negative Declaration prepared under the California Environmental Quality Act.

Section 2. A Mitigated Negative Declaration is approved for the Project.

Section 3. Upon approval of the Project by the City Council, the Deputy City Clerk may file the Notice of Determination with the County Clerk of Nevada County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of Section 21152(b) of the Public Resources Code and the State EIR Guidelines adopted pursuant thereto.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada City at a public meeting held on the ___ of January, 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

EVANS PHELPS, MAYOR

ATTEST:

By: _____
NIEL LOCKE, CITY CLERK

This Space for Clerk's Use:

NOTICE OF DETERMINATION

To: (XX) Office of Planning and Research
Mail: P O Box 3044
Sacramento, CA 95812-3044

From: City of Nevada City
317 Broad Street
Nevada City, CA 95959

(XX) County Clerk
County of Nevada

Subject: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

Project Title: Little Deer Creek Restoration and Flood Mitigation Project
State Clearinghouse Number: 2016112034

Contact Person: Amy Wolfson Telephone Number: (530) 265-2496
City Planner
317 Broad Street
Nevada City, CA 95959

Name and Address of Applicant: City of Nevada City
317 Broad Street
Nevada City, CA 95959

Project Description and Location: The City of Nevada City, as lead agency, in conjunction with Sierra Streams Institute are proposing the following improvements along Little Deer Creek in Pioneer Park: the removal of the concrete channel lining, streambank restoration, regrading of the Lower Field, a new "Roll and Stroll" trail, and drainage improvements associated with Little Deer Creek within Pioneer Park. Design and construction of the proposed improvements will be performed in general accordance with Low Impact Development (LDI) principles (i.e., natural storm water management) intended to improve and protect water quality.

This is to advise that the City of Nevada City, (XX) Lead Agency, has approved the above described project on December 10, 2014, and approved a Mitigated Negative Declaration on January 11, 2017, and has made the following determinations regarding the above described project:

1. The project () will have a significant effect on the environment
(XX) will not have a significant effect on the environment.

2. () An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA
(XX) A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
The EIR or Negative Declaration and record of project approval may be examined at City Hall, 317 Broad Street, Nevada City, CA 95959.

Notice of Determination

Project Title: Little Deer Creek Restoration and Flood Mitigation Project

State Clearinghouse Number: 2016112034

Page 2

- 3. Mitigation measures (XX) were, () were not, made a condition of the approval for this project.
- 4. A mitigation reporting or monitoring plan (XX) was () was not adopted for this project.
- 5. A statement of Overriding Conditions () was, (XX) was not, adopted for this project.
- 6. Findings (XX) were () were not made pursuant to the provisions of CEQA.

This is to certify that the Mitigated Negative Declaration with comments and responses and record of project approval is available to the General Public at:

City of Nevada City
City Hall
317 Broad Street
Nevada City, CA 95959

Signature _____ Title: _____

Date: _____

Date Received for Filing at OPR: _____

Dept. of Fish and Game Fee: \$2,216.25

Central Valley Regional Water Quality Control Board

2 December 2016

clear
12/9/16
E

Amy Wolfson
City of Nevada City
317 Broad Street
Nevada City, CA 95959

DEC 05 2016

CERTIFIED MAIL
91 7199 9991 7035 8417 5187

COMMENTS TO REQUEST FOR REVIEW FOR THE NEGATIVE DECLARATION, LITTLE DEER CREEK RESTORATION AND FLOOD MITIGATION PROJECT, SCH# 2016112034, NEVADA COUNTY

Pursuant to the State Clearinghouse's 10 November 2016 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Negative Declaration* for the Little Deer Creek Restoration and Flood Mitigation Project, located in Nevada County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases,

the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:

http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil 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, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

Mitigation Measure CUL-1: Avoid Potential Effects on Previously Undiscovered Archaeological Resources.

To minimize the potential for destruction of or damage to previously undiscovered archaeological and Cultural resources and to identify any such resources at the earliest possible time during project-related earthmoving activities, THE PROJECT PROPONENT and its construction contractor(s) will implement the following measures:

1. A qualified professional geologist shall be on site observing all excavation activities. If undisturbed native soil is encountered, excavation will stop, and the UAIC/Nisensan representative will be informed and excavation will not resume until a cultural monitor is on site. In the event, a cultural monitor is determined to be necessary, compensation shall be limited to available funding and shall not exceed an agreed upon amount by the City of Nevada City. While compensation may or may not be available, a cultural monitor shall be allowed to be present through the duration of the project.
 - ~~1. Paid Native American Monitors from culturally affiliated Native American Tribes will be invited to monitor the vegetation grubbing, stripping, grading, or other ground disturbing activities in the project area to determine the presence or absence of any cultural resources. Native American Representatives from cultural affiliated Native American Tribes act as a representative of their Tribal government and shall be consulted before any cultural studies or ground disturbing activities begin.~~
2. Native American Representatives and Native American Monitors have the authority to identify sites or objects of significance to Native Americans and to request that work be stopped, diverted, or slowed if such sites or objects are identified within the direct impact area; however, only a Native American Representative can recommend appropriate treatment of such sites or objects.
3. A consultant and construction worker cultural resources awareness brochure and training program for all personnel involved in project implementation will be developed in coordination with interested Native American Tribes. The brochure will be distributed and the training will be conducted in coordination with qualified cultural resources specialists and Native American Representatives and Monitors from culturally affiliated Native American Tribes before any stages of project implementation and construction activities begin on the project site. The program will include relevant information regarding sensitive archaeological resources, including applicable regulations, protocols for avoidance, and consequences of violating State laws and regulations. The worker cultural resources awareness program will also

describe appropriate avoidance and minimization measures for resources that have the potential to be located on the project site and will outline what to do and whom to contact if any potential archaeological resources or artifacts are encountered. The program will also underscore the requirement for confidentiality and culturally-appropriate treatment of any find of significance to Native Americans and behaviors, consistent with Native American Tribal values.

4. THE PROJECT PROPONENT will include a construction-related inadvertent discovery plan in the construction contractor's contract conditions, which must be finalized and approved before ground-disturbing construction activities, including excavation or fill, begin. The construction-related inadvertent discovery plan will require the construction contractor to take the following actions if cultural resources such as bone, shell, artifacts, human remains, historic period structural features, architectural elements, bottles, ceramics, bricks, etc. are discovered after ground-disturbing construction activities begin:
 - a. If potential archaeological resources cultural resources, articulated, or disarticulated human remains are discovered by Native American Representatives or Monitors from interested Native American Tribes, qualified cultural resources specialists, or other Project personnel during construction activities, work will cease in the immediate vicinity of the find (based on the apparent distribution of cultural resources), whether or not a Native American Monitor from an interested Native American Tribe is present. A qualified cultural resources specialist and Native American Representatives and Monitors from culturally affiliated Native American Tribes will assess the significance of the find and make recommendations for further evaluation and treatment as necessary. These recommendations will be documented in the project record. For any recommendations made by interested Native American Tribes which are not implemented, a justification for why the recommendation was not followed will be provided in the project record.
 - b. No construction activities will occur within 100 feet of an area under a stop work order. THE PROJECT PROPONENT will honor all reasonable requests by a Native American Monitor from interested Native American Tribes to stop work in a specified area for 48 hours, or until Native American Representatives have provided a reasonable path for work to resume, whichever occurs first.
 - c. Following a finding that the discovery represents a potential historical or cultural resource, an archaeologist who meets the Secretary of Interior's Standards for a Professional Archaeologist will delineate the resource according to industry-

standard methods, taking into consideration recommendations and findings of Native American Representatives or Monitors from interested Native American Tribes. Recordation of Native American resources will be conducted in a respectful manner consistent with the behaviors identified by the Native American Monitor. The delineation will identify and map the full extent of the site. The site boundary will be recorded using GPS and the site boundary will be flagged to include a 100-foot buffer.

5. Avoidance and preservation in place is the preferred manner of mitigating impacts to a cultural resource and may be accomplished by several means, including:
 - a. Planning construction to avoid archaeological sites; incorporating sites within parks, green-space, or other open space; covering archaeological sites; deeding a site to a permanent conservation easement; or other preservation and protection methods agreeable to consulting parties and regulatory authorities with jurisdiction over the activity. Recommendations for avoidance of cultural resources will be reviewed by THE PROJECT PROPONENT, interested Native American Tribes, and the appropriate agencies, in light of factors such as costs, logistics, feasibility, design, technology, and social, cultural, and environmental considerations and the extent to which avoidance is consistent with project objectives. Avoidance and design alternatives may include realignment within the project area to avoid cultural resources, modification of the design to eliminate or reduce impacts to cultural resources, or modification or realignment to avoid highly significant features within a cultural resource. Native American Representatives from interested Native American Tribes will be allowed to review and comment on these analyses and shall have the opportunity to meet with THE PROJECT PROPONENT and its representatives who have technical expertise to identify and recommend feasible avoidance and design alternatives, so that appropriate and feasible avoidance and design alternatives can be identified.
 - b. If the resource can be avoided, the construction contractor(s), with ~~paid~~ Native American Monitors from culturally affiliated Native American Tribes present, will install protective fencing outside the site boundary, including a buffer area, before construction restarts. The construction contractor(s) will maintain the protective fencing throughout construction to avoid the site during all remaining phases of construction. The area will be demarcated as an “Environmentally Sensitive Area.” Native American Representatives from interested Native American Tribes and THE PROJECT PROPONENT will also consult to develop measures for long term management of the resource and routine operation and maintenance within culturally sensitive areas that retain resource integrity,

including tribal cultural integrity, and including archaeological material, Traditional Cultural Properties, and cultural landscapes, in accordance with state and federal guidance including National Register Bulletin 30 (*Guidelines for Evaluating and Documenting Rural Historic Landscapes*), Bulletin 36 (*Guidelines for Evaluating and Registering Archaeological Properties*), and Bulletin 38 (*Guidelines for Evaluating and Documenting Traditional Cultural Properties*); National Park Service Preservation Brief 36 (*Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes*) and using the Advisory Council on Historic Preservation (ACHP) *Native American Traditional Cultural Landscapes Action Plan* for further guidance. Use of temporary and permanent forms of protective fencing will be determined in consultation with Native American Representatives from interested Native American Tribes.

- c. If preservation in place using appropriate covering or capping is the selected approach, the construction contractor(s) and maintenance personnel will install geotechnical fabric as a protective cover to the surface of the resource and then cap or cover the resource with a layer of local or certified clean soil. A copy of the clean soil certificate will be provided to interested Native American Tribes before a resource is capped or covered. The layer of soil will be thick enough that construction activities will not penetrate the protective cap or otherwise disturb the resource. An archaeologist who meets the Secretary of Interior's Standards for a Professional Archaeologist and a Native American Monitor must be present during installation of any protective cover and capping of a resource. Native American Representatives and Monitors from interested Native American Tribes will also be invited to attend the installation and capping. Both temporary and permanent forms of resource capping will be determined in consultation with interested Native Americans. The limits of the area to be capped will be demarcated in the field by a Native American Monitor in consultation with a THE PROJECT PROPONENT representative and cultural resources specialists.
6. If avoidance is infeasible, a Treatment Plan that identifies how identified properties that have been determined to be eligible for the CRHR or NRHP will be treated under CEQA shall be prepared and implemented in consultation with THE PROJECT PROPONENT and Native American Representatives from culturally affiliated Native American Tribes (if the resources are prehistoric or Native American in nature). In all cases, treatment will be carried out with dignity and respect. Interested Native American Tribes will be consulted on the research approach, methods and whether burial or data recovery or alternate mitigation is culturally-appropriate for the find. Alternative mitigation will be considered for cultural resources instead of burial and

archaeological data recovery, curation, testing, and analysis. Work may proceed on other parts of the project site while treatment is being carried out, to the extent it does not interfere with respectful treatment. In the formulation of any Treatment Plan, the following considerations shall be made:

- a. Concerning scientific handling, testing, or field or laboratory analysis of archaeological sites and materials, THE PROJECT PROPONENT will consult with interested Native American Tribes and USACE to identify an acceptable procedure. THE PROJECT PROPONENT will assume for the purposes of this project that NHPA Section 106 consultation will be approached in a manner consistent with the Advisory Council on Historic Preservation letter dated March 31, 2015, regarding resolution of adverse effects in the Feather River West Levee Project matter. However, THE PROJECT PROPONENT is not the lead agency for Section 106 compliance. THE PROJECT PROPONENT, as the lead CEQA agency, will not require scientific handling, testing, or field or laboratory analysis, and will consider various types of mitigation including non-traditional approaches to treatment and will recognize the state policy in PRC Section 5097.991 that Native American remains and grave goods shall be repatriated.
 - b. THE PROJECT PROPONENT and the MLD will implement the Burial Avoidance and Recovery Plan if human remains or burial objects are observed during construction. If human remains are discovered during any phase of the project, THE PROJECT PROPONENT and the contractors will coordinate with the county coroner and NAHC to make the determinations and perform the management steps prescribed in California Health and Safety Code Section 7050.5 and California PRC Section 5097.98.
 - c. For any treatment and plans, THE PROJECT PROPONENT will assume for the purposes of this project that NHPA Section 106 consultation will be approached in a manner consistent with the ACHP letter dated March 31, 2015, regarding resolution of adverse effects in the Feather River West Levee Project matter. However, THE PROJECT PROPONENT is not the lead agency for Section 106 compliance. THE PROJECT PROPONENT, as the lead CEQA agency, will not require scientific handling, testing, or field or laboratory analysis, and will consider various types of mitigation including non-traditional approaches to treatment and will recognize the state policy in PRC Section 5097.991 that Native American remains and grave goods shall be repatriated.
7. Following completion of major construction activities, THE PROJECT PROPONENT and its consultant, in consultation with Native American

Representatives from culturally affiliated Native American Tribes, will prepare a report that documents what, if any, cultural resources or human remains were discovered during project implementation, how impacts to each resource (whether discovered during construction or during inventory and consultation) were avoided or what treatment was instituted, the condition of each resource after project implementation, recommendations for how additional impacts can be avoided, and recommendations for management of each resource. Interested Native American Tribes will be provided reasonable time to review and comment on the draft and draft final confidential report. Any comments made by interested Native American Tribes will be documented in the project record, and recommended revisions will be considered for inclusion in the final reports. For any recommendations made by interested Native American Tribes which are not incorporated into the report, a justification for why the recommendation was not followed will be provided in the report.

- a. Interested Native American Tribes will be provided reasonable time to review and comment on the draft and draft final reports. Any comments made by interested Native American Tribes will be documented in the project record, and recommended revisions will be considered for inclusion in the final reports. For any recommendations made by culturally affiliated Native American Tribes which are not incorporated into the report, a justification for why the recommendation was not followed will be provided in the report. Records of all Native American consultation conducted under CEQA will be confidentially provided to the lead Federal agency responsible for compliance with NEPA and Section 106 of the NHPA.
- b. Should any Native American cultural resources be encountered, resource documentation will take into consideration recommendations and comments made by culturally affiliated Native American Tribes. These comments and recommendations will be documented in the project reports and in the resource records. For any recommendations made by culturally affiliated Native American Tribes which are not adopted by THE PROJECT PROPONENT, a justification for why the recommendation was not followed will be provided in the report.
- c. THE PROJECT PROPONENT or a THE PROJECT PROPONENT representative may request additional information, or notify the appropriate interested Native American Tribe, if they disagree with identification, recommendations or actions made by a Native American Representative or Monitor from an interested Native American Tribe. Similarly a Native American Representative or Monitor from an

interested Native American Tribe may notify or request additional information from THE PROJECT PROPONENT if they disagree with identification, recommendations, or actions made by THE PROJECT PROPONENT or one of its representatives.

Timing: During all ground-disturbing construction phases.

Responsibility: THE PROJECT PROPONENT and its construction contractor(s).

Mitigation Measure CUL-2: Avoid Potential Effects on Previously Undiscovered Paleontological Resources.

To minimize the potential for destruction of or damage to potentially unique, scientifically important paleontological resources during project-related earthmoving activities, THE PROJECT PROPONENT and its construction contractor(s) will implement the following measures:

1. Before the start of any project-related earthmoving activities, THE PROJECT PROPONENT shall retain a qualified archaeologist or paleontologist to train all construction personnel involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils likely to be seen during construction, and proper notification procedures should fossils be encountered.
2. If paleontological resources are discovered during earthmoving activities, the construction crew shall notify THE PROJECT PROPONENT and shall immediately cease work in the vicinity of the find. THE PROJECT PROPONENT shall retain a qualified paleontologist to evaluate the resource and prepare a recovery plan in accordance with Society of Vertebrate Paleontology guidelines (1996). The recovery plan may include but is not limited to a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations in the recovery plan that are determined by THE PROJECT PROPONENT to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered.

Timing: During all ground-disturbing construction phases.

Responsibility: THE PROJECT PROPONENT and its construction contractor(s).

Mitigation Measure CUL-3: Avoid Potential Effects on Undiscovered Burials.

To minimize the potential for destruction of or damage to undiscovered burials during project-related earthmoving activities, THE PROJECT PROPONENT and its construction contractor(s) will implement the following measures:

1. In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, all ground-disturbing work potentially damaging excavation in the area of the burial and a 150-foot radius shall halt and the County Coroner shall be notified immediately. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the NAHC by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). The NAHC shall designate a Most Likely Descendant for the human remains. After the coroner's findings have been made, an archaeologist meeting the *Secretary of the Interior's Professional Standards for Archaeologists* and the NAHC-designated Most Likely Descendant shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities of [insert] County for acting upon notification of a discovery of Native American human remains are identified in PRC Section 5097.9.
2. Native American human remains, associated grave goods, and items associated with Native American human remains that are subject to California PRC Section 5097.98 will not be subjected to scientific analysis, handling, testing or field or laboratory analysis without written consent from the Most Likely Descendant. If human remains are present, treatment shall conform to the requirements of state law under California Health and Safety Code Section 7050.5 and PRC Section 5097.87, unless the discovery occurs on federal land. THE PROJECT PROPONENT agrees to comply with other related state laws, including PRC Section 5097.9.

Timing: During all ground-disturbing construction phases.

Responsibility: THE PROJECT PROPONENT and its construction contractor(s).

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

JANUARY 11, 2017

TITLE: REQUEST FOR EXTENSION OF TIME – Glenn Christ, Applicant/Owner Request to extend recordation of Final Map/Use Permit for 16-unit subdivision known as “Gracie Commons” for 2 years, pursuant to City’s Subdivision Ordinance Section 16.04.380

RECOMMENDATION:

1. Approve the Extension of Time for the Tentative Final Map, the Use Permit accommodating the Planned Unit Development proposal, and the Architectural Review, subject to the Conditions of Approval as previously approved.

CONTACT: Amy Wolfson, City Planner

BACKGROUND

The applicant, Glenn Christ applied for a Final Map relative to the subdivision known as Gracie Commons in 2008 and received City Council approval in February 2009. The project description is as follows:

Project Description: Proposed tentative final map to create 16 units housed in 12 buildings, for the purpose of individual sale and ownership, on properties comprising approximately 2.12 acres at 400 Gracie Road and 13237 Gracie Road in Nevada City. The project, known as “Gracie Commons” utilizes a Planned Unit Development concept to provide construction of 16 residential units to range in size from 556 to 2,573 square feet. The unit mix includes four attached units of 556 to 587 square feet, and a duplex unit containing units of 972 square feet. The project includes a common area which would include the street and utility distribution as well as guest parking, and two other common open space areas that will contain a sitting area covered by an arbor and a raised bed vegetable garden. The common areas will either be jointly owned by the unit owners, or by a formal Homeowners Association formed to hold title. The project will be built over a period of time as the market dictates.

The project involved several applications including a General Plan Amendment, Zoning Change, and annexation application for a portion of the property. The final approval date was February 25, 2009. The State of California approved legislation from 2009 to 2014 allowing extensions of time for such maps for two-year increments; these extensions were allowed due to the economic recession.

The applicant has utilized the State extensions and the map is set to expire on February 24, 2017. The project is eligible for an extension for filing the tentative map under the City’s Subdivision Ordinance, Section 16.04.380. Such section states that the final map may be extended “by the City Council” for a period or periods not exceeding a total of two years.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission heard this extension request at their regular meeting of December 15, 2016. At that time, the item was opened up for public comment and no public testimony was presented. The Planning Commission determined that

circumstances have not changed substantially since the time of the original approval and that the following findings pursuant to City Municipal Code Section 17.88.060 could not be made, which could warrant a new public hearing:

- a. that there have been substantial changes in the circumstances surrounding the permit,
- b. or that ordinances governing the use have changed substantially,
- c. or that the attitude of the public is likely to have changed substantially since the original approval.

The Planning Commission also acknowledged the economic recession as contributing to the delay in recording the Final Map. The Planning Commission voted 4-0 (Damskey absent) to extend the Final Map along with those entitlements integral to the subdivision application, including the Use Permit for a Planned Unit Development, and Architectural Review.

ENVIRONMENTAL CONSIDERATIONS: Pursuant to Resolution 2009-06, the City Council adopted a Mitigated Negative Declaration (MND) for this project. The Extension of Time request would apply to the previously adopted MND as there has been no new information presented that suggests additional impacts that haven't already been addressed.

FINANCIAL CONSIDERATIONS: All financial responsibility pertaining to map recordation is that of the applicant and there is no financial burden to the City for granting a map extension.

ATTACHMENTS:

Exhibit A – Original Council Approval Letter with Final Conditions and Mitigation Measures.
Exhibit B - Reduced Tentative Map



City of Nevada City

March 2, 2009

Glenn Christ
126 Purdue Avenue
Kensington CA 94708

RE: City Council action on the project known as “Gracie Commons”, proposing 16 residential units to be housed in 12 buildings, on 2.12 acres located at 400 Gracie Road and 13237 Gracie Road, Nevada City, owned by American Hill Development, LLC.

Dear Glenn:

The City Council, at a public hearing held on February 25, 2009, considered the above referenced project. By a unanimous vote, the Council approved the project which includes the following components:

1. General Plan Amendment from “E” Estate to “MF” Mixed Residential for the 1.0-acre parcel proposed to be annexed to the City.
2. Rezoning application from “R2” (Multiple Family) to “R2-PD” (Multiple Family with Planned Development Combining District) on the parcel within the City limits
3. Annexation and Rezoning application for the parcel to be annexed to the City to reflect a “R2-PD-AN” (Multiple-family, Planned Development and Annexation overlay) zoning.
4. Conditional Use Permit for a planned unit development consisting of 16 units, plus 3 second dwelling units as required by the City ordinance and common open space areas.
5. Tree removal permit (to remove 31 trees to allow for construction and infrastructure and removal of 13 dead or diseased trees)
6. Architectural Review application on all new and remodeled buildings.
7. Demolition Permit to remove existing, non-historic structures

The Council following resolutions and ordinances:

1. **Resolution 2009-XX.** Resolution Amending the General Plan for Nevada City and Approving the Final Map of “Gracie Commons” at Gracie Road, Nevada City.
2. **Ordinance 2009-02.** An Ordinance of the City of Nevada City Rezoning Property at 400 Gracie Road, Nevada City.
3. **Ordinance 2009-03.** An Ordinance Approving the Annexation of the Unincorporated Area owned by American Hill Development, LLC Along Gracie Road to the City of Nevada City.
4. **Resolution 2009-XX.** Resolution of application by the City of Nevada City requesting the Local Agency Formation Commission of Nevada County to Initiate Proceedings for the Annexation of the Glenn Christ – “Gracie Commons” Annexation (1 parcel), City Annexation No. ____.

*Project Approval Letter – Gracie Commons
March 2, 2009
Page 2 of 9*

5. **Resolution 2009-XX.** Resolution adopting Findings of Fact for the Gracie Commons Residential Development project.

Attached are the adopted and amended conditions of approval and mitigation measures that were incorporated the project and included in the staff report dated February 4, 2009. Also, staff provided you with the Notice of Determination which was filed on February 26, 2009 and a copy is included in the project file at City Hall.

Once the resolutions and ordinances are adopted by the Council, copies will be sent to you.

The staff appreciates you and your team's cooperation with staff while processing this application.

Sincerely,

Cindy Siegfried, City Planner

cc: Tony Rosas, Project Architect
Andrew Cassano, Nevada City Engineering, Inc.

**GRACIE COMMONS
CONDITIONS OF APPROVAL:**

The City Council approved the project known as Gracie Commons on February 25, 2009. Below is a listing of conditions of approval applied to the project and all conditions shall occur prior to recordation of the Final Map, unless otherwise noted. X

PLANNING DEPARTMENT

1. **The Council approval is for the project known as “Gracie Commons” and includes a tentative final map to create 16 units housed in 12 buildings. The approval includes the project site plan which indicates the building envelope, the size and type of residential unit, and the tree and fencing plans. Project approval also includes the architectural review and elevations of the residences. *The applicant agrees that the condominium fourplex will be constructed in the beginning phase of the project.***
2. **Prior to recordation of the tentative Final Map a landscaping plan prepared by a licensed landscape architect shall be submitted to and approved by the Planning Commission, and constructed/installed according to any approved plan. The landscaping plan shall include any lighting to be incorporated into the project. The landscaping plan shall be prepared in accordance with Section 17.80.050 of the City Municipal Code. *The landscaping plan shall include the timing and order of plantings and also include the condition that the plantings/fencing to screen the adjacent property owners shall be planted in the initial stages of the project.***
3. **The Planning Commission, during their architectural review, shall determine the materials of a six-foot tall privacy fence, or a combination of fencing and landscaping, to be constructed along the entire length of the property line between the project site and the Pinecrest Condominiums. The Commission shall also review the materials and/or landscaping along the adjacent, Wisor and Mahaffy properties.**
4. **The project access road shall be named and addresses will be assigned by the City Planner and City Engineer, in conjunction with the Nevada City Postmaster.**
5. **The project access road will not be extended or utilized for access into the adjacent property known as the “Boardman” property, previously known as “St. Francis Woods.” This adjacent property is approximately 90 acres and is known as a portion of Assessor’s Parcel Numbers 37-010-14, 15, 16. A note stating the project access will not be extended into this property shall be included on the Final Map.**

Tree Removal

6. **All trees and resident species shown for retention shall be incorporated into the grading improvement and landscape plans, including methods to be employed for tree retention, including those described in a Tree Preservation Plan; such plan shall be prepared by a Licensed Arborist. The Licensed Landscape Architect shall provide a tree protection plan to be included with the approved landscaping plans.**
7. **Trees to be retained shall be protected during any construction activity. Prior to any site disturbance, a minimum four-foot (4') tall, brightly colored synthetic fence shall be installed at the outermost edge of the Dripline Protection Zone for those trees designated to be saved and located within fifty feet (50') of any development activity. The fencing must be adequate to prevent its inadvertent relocation. Fencing detail shall be shown on the grading and/or improvement plans, and any required landscape plans. Fencing must be installed in accordance with the approved fencing detail prior to the commencement of any grading operations. The developer shall contact the City Engineer and City Planner for an inspection of the fencing prior to initiation of grading activities. The fences must remain in place**

throughout the entire construction and shall not be removed until written authorization is received from the City Engineer and City Planner.

8. Approval is given for any diseased trees or any trees that need to be removed for installation of any infrastructure improvements, as noted on the Tree Plan and as approved by the Planning Commission. Any other trees shall be removed on a site-by-site basis, and only when construction is to begin on each lot. Trees to be removed shall obtain approval from the Planning Commission through the Tree Removal Application process.
9. Approval is given for the demolition of the existing structures on the property, including a 1978 mobilehome and related overhang, decking and shelter, a small, 300-square foot cabin and porch and a small shed/livestock shelter.
10. A Planning Commission liaison committee, consisting of one or two Commissioners, shall be appointed to assist the applicant in approving any minor changes to the project. If the committee determines any changes are beyond their scope of authority, the matter shall be heard by the full Commission.
11. A centralized refuse pickup area is required for developments with five or more units unless condominium plans specifically show provisions for individual pickup. The applicant shall provide the City Planner with a “will-serve” letter from Waste Management showing their ability to serve such refuse area.
12. *The H.S. Bradley City marker shall be protected during construction and enclosed by screening or fencing. The City Engineer and City Planner shall approve the protection measure prior to installation.*

CITY ENGINEER and DIRECTOR OF PUBLIC WORKS:

1. The applicant shall construct curb and gutter along Gracie Road which will improve pedestrian access. A small pedestrian path inside the project to Gracie Road through the common area will be required to be constructed by the applicant. Location of a crosswalk from the project to the south side of Gracie Road shall be approved by staff and installed by the applicant.
2. The applicant shall offer for dedication the roadway within the project to the City.
3. A temporary flashing light may be installed along Gracie Road to ensure existing vehicular traffic becomes aware of the entrance into this project. This traffic measure is to be evaluated by the City Engineer and Director of Public Works at the time of the construction of the entrance.
4. The vegetation at the entrance to the project shall be maintained and kept low to the ground and not impede any sight distance entering or exiting the property.
5. The existing 25-mile-per-hour speed limit sign is to be relocated, by the applicant, further east along Gracie Road, with the final location to be approved by the City Engineer and Police Chief.
6. All run-off water from impervious areas such as roofs, patios, and driveways shall be captured and directed by way of impervious conduits or culverts to an appropriate disposal area. The exhaust ends of the culverts and/or drain pipes should be fitted with an energy dissipater such as rip-rap boulders or concrete baffles. It will be the responsibility of the homeowners that the drain systems are inspected and cleaned on a regular basis to ensure that they are functioning correctly. Siltation control of runoff will be required at the site plan design stage and approval required by the City Engineer.

Project Approval Letter – Gracie Commons**March 2, 2009****Page 5 of 9**

7. Erosion control measures shall be implemented to stabilize areas disturbed for road construction or other site improvements. Prior to any site disturbance, the City Engineer will require a grading permit to be submitted and approved.
8. Grading plans shall include the time of year for construction activities. No construction shall occur after October 15 or before May 1 unless the City Engineer determines project soil conditions to be adequate to accommodate construction activities.
9. A soils report, prepared by a Licensed Geotechnical Engineer, will be required and included in the design of the Grading Plan, and approved by the City Engineer. Runoff, both from the north and south side of the parcel, must be addressed in the grading plan.
10. An encroachment permit shall be obtained and approved by the Nevada City Director of Public Works to take access from Gracie Road.
11. The project will be required to connect to the Nevada City sewer system by providing a 6-inch mainline to an existing manhole at Gracie Road.
12. Construction activities (forklift activity and truck delivery/pickups), including site grading, shall be limited to the hours of 7:30 a.m. to 7:30 p.m., Monday through Friday, pursuant to Nevada City Ordinance 81-03.
13. Fixed construction equipment, including compressors and generators, shall be located as far as feasibly possible from the residential properties. All noise-generating tools shall be shrouded or shielded, and all intake and exhaust ports on power construction equipment shall be muffled or shielded.
14. The CC&Rs or maintenance agreement to provide for consistent maintenance of the project roadways and common area facilities will be filed concurrently with the final map.

NEVADA IRRIGATION DISTRICT:

1. APNs 05-500-32 and 05-500-45 are within the City limits and considered "Outside District" parcels by NID. Annexation of these parcels to NID and an amendment to the Service Area Agreement between NID and the City of Nevada City will be required in order for the District to provide water service.

NEVADA CITY FIRE CHIEF:

1. All homes must be equipped with residential automatic fire suppression fire sprinkler systems compliant with NFPA 13R.
2. No street parking will be allowed at any time except in designated parking spots that do not impede or reduce the minimum fire department required access road width of 20 feet.
3. All curbs will be designated as no parking with red curbs and clear identification to that effect, with accompanied posted signs throughout the development.
4. The minimum road width throughout the complex must be no less than 20 feet in unobstructed width. (A section of the plans indicate a width of 18 feet which must be brought up to the 20-foot standard). The interior streets are to be privately owned and maintained by the project residents, including snow removal. All improvements will be at the applicant's expense.
5. All address numbers must be clearly marked and identifiable from the street.

6. No speed bumps, undulations, gates or barricades may be placed in the roadway or impede access without written approval from the Fire Department.
7. All construction, fire sprinkler and site plans must be reviewed by the Fire Department and all work must conform to the work as outlined in the submitted plans.
8. The roadway through the Common Area shall be at least 14 feet in width. The roadway material through the Common Area shall be to withstand a fully loaded fire truck (44,000 pounds).

CITY FINANCE DIRECTOR:

1. The applicant is advised that the project as conditioned is subject to the provisions of the Municipal Code, including the following:
 - a. Prior to commencing work, all contractors, vendors, and consultants providing services within the City limits of Nevada City must have a city business license.
 - b. Prior to issuance of building permits or as shall be allowed by law, all applicable City fees, including but not limited to AB1600 mitigation fees, shall be paid in full. An estimate of these fees is attached (Attachment 2).
 - c. Prior to issuance of building permit, a regional transportation fee shall be paid to the City according to the fee schedule for western Nevada County jurisdictions, as adopted by the Nevada County Transportation Commission.

SUMMARY OF PROPOSED MITIGATION MEASURES

Environmental Factors Potentially Affected:

All of the following environmental factors have been considered. Those environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Unless Mitigation Incorporated” as indicated by the checklist on the following pages.

✓	1. Land Use / Planning	✓	2. Population / Housing		3. Geology / Soils
—	4. Hydrology / Water Quality	✓	5. Air Quality	—	6. Transportation / Circulation
—	7. Biological Resources	—	8. Mineral Resources		9. Hazards / Hazardous Materials
—	10. Noise	—	11. Public Services	—	12. Utilities / Service Systems
—	13. Aesthetics	—	14. Agriculture Resources	✓	15. Cultural Resources
—	16. Recreation	—	17. Mandatory Findings of Significance		

LAND USE Mitigation Measure: To offset potential land use impacts on adjacent, established residential uses, the following mitigation measure shall be required:

Mitigation Measure 1A. Prior to issuance of a building permit of any unit, a six-foot tall privacy fence and/ or a combination of fencing and landscaping, shall be constructed along the entire length of the property line between the project site and the Pinecrest Condominiums. The materials of the fence shall be determined by the Planning Commission. Additionally, fencing and/or landscaping shall be constructed along the property line between the project site and the Wisor and Mahaffy properties as determined by the Planning Commission.

Mitigation Monitoring Program

MEASURE	MONITORING AUTHORITY	WHEN IMPLEMENTED
1A	Planning Dept	Prior to Building Permit Issuance

HOUSING Mitigation Measure: To offset any impacts of residential units and to ensure affordability standards are met, the following mitigation measures shall be included:

Mitigation Measure 2A: Thirty percent (30%) of the total project lots shall be designated on the final map as requiring the construction of a home less than or equal to 1,500 square feet in size, and a garage not to exceed 500 square feet in size. According to the City’s Housing Element Policy 16b, these homes shall be affordable to moderate income and below households via deed restriction. Such lots shall be shown on the recorded final map.

Mitigation Measure 2B: Twenty percent (20%) of the total project lots shall contain a second dwelling attached or detached which is not less than 350 square feet in size or more than 640 square feet in size and shall meet all requirements of the Nevada City Municipal Code Sections 17.72.020 and 17.72.030, or as amended. These lots shall be shown on the recorded final map.

Mitigation Monitoring Program

MEASURE	MONITORING AUTHORITY	WHEN IMPLEMENTED
2A, B	Planning Department	At project approval and prior to recordation of Final Map

AIR QUALITY Mitigation & Residual Impact: To offset the potentially adverse impacts associated with grading, roadway and building construction, along with any vegetation and/or tree removal, the following mitigation measures shall be required:

Mitigation Measure 5A. Prior to issuance of grading and building permits, to reduce the operations and stationary source controls impact of long-term operations, the developer shall submit an application for Authority to Construct to the Northern Sierra Air Quality Management District (NSAQMD) for any source of air contaminants that exists after construction that is not exempt from District permit requirements. Such requirements do not apply to motor vehicles or self-propelled construction equipment. The applicant shall consult the District to determine what other equipment is exempt.

Mitigation Measure 5B: Prior to grading permit issuance, a Dust Control Plan must be submitted to, and approved by, the District in advance for any project involving the disturbance of more than one acre. District Rule 226 stipulates: “Any person shall take all reasonable precautions to prevent dust emissions.”

Mitigation Measure 5C: Applicant/Developer shall not conduct any open burning of waste vegetation generated by this project, such as from construction of access roads or any other site preparation work.

Mitigation Measure 5D: The site is not mapped as having ultramafic rock/serpentine, and is therefore not subject to the Asbestos ATCM for Construction. If, however, ultramafic rock is subsequently determined to exist on the project site, the District must be contacted no later than the following business day. If ultramafic rock/serpentine is found on site NSAQMD requirements shall be met.

Mitigation Monitoring Program

MEASURE	MONITORING AUTHORITY	WHEN IMPLEMENTED
5A	Northern Sierra Air Quality Management District.	Prior to issuance of the grading and building permits.
5B, C, D	Northern Sierra Air Quality Management District	Prior to issuance of the grading permit.

CULTURAL RESOURCES Mitigation & Residual Impact: To offset potentially adverse cultural resources impacts associated with construction and the proposed project, the following mitigation measures shall be required:

Mitigation Measure 15A. The following Note shall be incorporated into any future Grading Plans and a note shall be included on the recorded Final Map:

“All construction plans shall advise contractors and construction personnel involved in any form of ground disturbance, i.e. utility placement or maintenance, grading, etc., of the remote possibility of encountering subsurface cultural resources. If such resources are encountered or suspected, work shall be halted

immediately and the Planning Department contacted. A professional archaeologist shall be consulted to access any discoveries and develop appropriate management recommendations for archaeological resource treatment. If bones are encountered and appear to be human, California Law requires that the Nevada County Coroner and the Native American Heritage Commission be contacted and, if Native American resources are involved, Native American Organizations and individuals recognized by the County shall be notified and consulted about any plans for treatment.”

Mitigation Measure 15B. The official City Marker, placed by H. S. Bradley in 1869 and identifying the City Limit line, on the eastern property line, shall be designated as “Open Space” on the recorded Final Map.

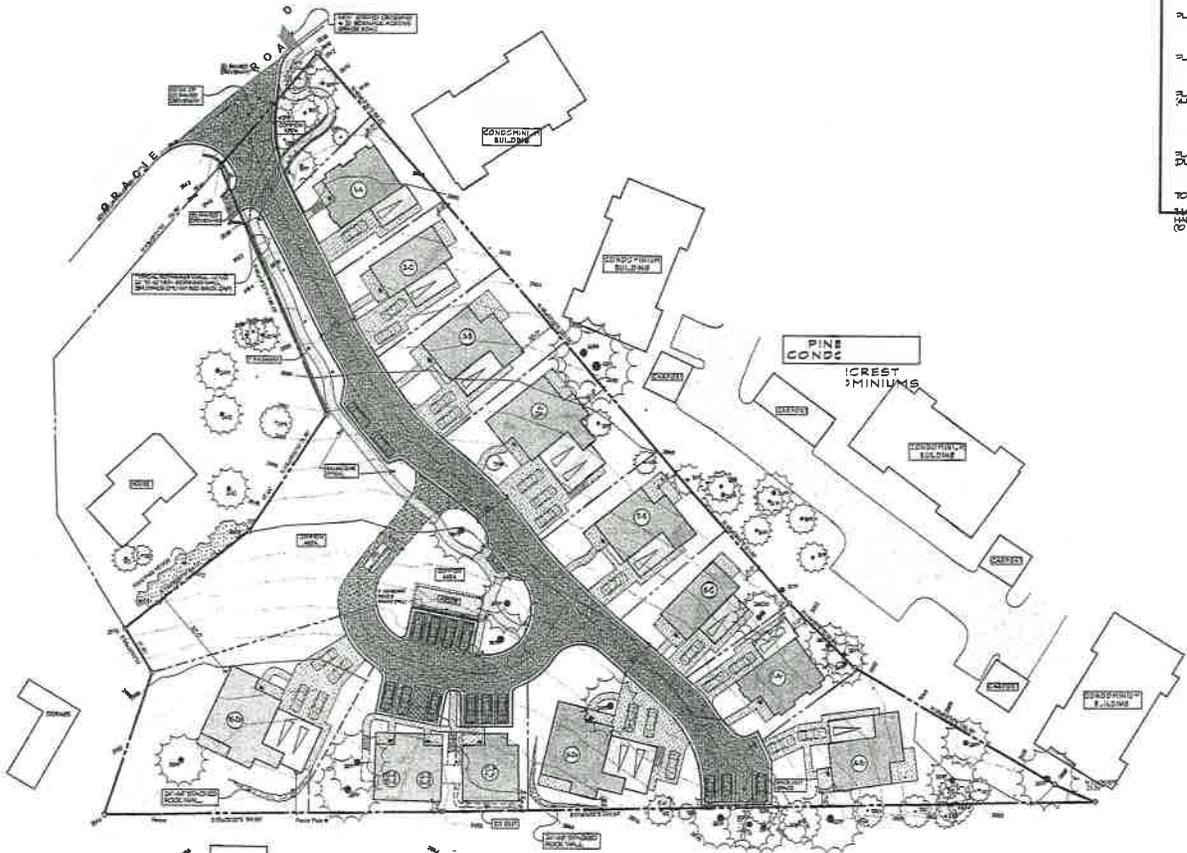
Mitigation Monitoring Program

<i>MEASURE</i>	<i>MONITORING AUTHORITY</i>	<i>WHEN IMPLEMENTED</i>
15A	City Engineer and Planning Depts	Approval of Improvement Plans or Issuance of a grading or building permit, and a note included on the recorded Final Map.
15B	City Engineer and Planning Depts.	Designation on recorded Final Map.

530-265-8707

547 UREN STREET
HERNDON CITY, VA 95959

TONY ROSAS ASSOCIATES



UNIT TABULATION

PLAN	UNITS	DESCRIPTION
PLAN A	1	CONDITIONED SPACE
		STVA SQUARE FEET
PLAN B	3	CONDITIONED SPACE
		STVA SQUARE FEET
PLAN C	1	CONDITIONED SPACE
		STVA SQUARE FEET
PLAN D	3	CONDITIONED SPACE
		STVA SQUARE FEET
PLAN E	4	CONDITIONED SPACE
		STVA SQUARE FEET
PLAN F	2	CONDITIONED SPACE
		STVA SQUARE FEET

TOTAL OF 16 UNITS (HOUSED IN 12 BUILDINGS)
 HANDICAPPED ADAPTABLE UNITS ARE UNITS 3, 4, 6 & 7 (TOTAL 10 UNITS)

LEGEND:

- CONCRETE PAVEMENT
- ASPHALT
- GRASS PAVED
- DRIVEWAY
- DRIVEWAY WITH SIDE CURB (AS NOTED ON PLAN)
- DRIVEWAY WITH SIDE CURB (AS NOTED ON PLAN)

PARKING TABULATION

DESCRIPTION	SPACES
COVERED PARKING SPACES	0
UNCOVERED PARKING (PERCENT OF GARAGE)	10
ON-STREET PARKING	0
TOTAL PARKING PROVIDED	10

PROJECT INFORMATION

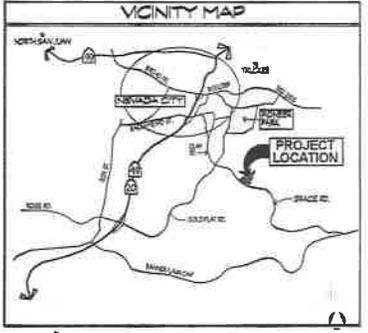
ADDRESS: 3333 GRACE ROAD, HERNDON, VA 20185
 SITE AREA: 2.0 ACRES
 TOTAL PERMITTED AREA: 100,000 SQ. FT.
 TOTAL PERMITTED UNITS: 100
 TOTAL PERMITTED GARAGES: 100

PROJECT TEAM

ARCHITECT:
 TONY ROSAS ASSOCIATES, INC.
 547 UREN STREET, HERNDON, VA 20185
 (703) 265-8707

PLANNING ENGINEER:
 TONY ROSAS ASSOCIATES, INC.
 547 UREN STREET, HERNDON, VA 20185
 (703) 265-8707

LANDSCAPE ARCHITECT:
 TONY ROSAS ASSOCIATES, INC.
 547 UREN STREET, HERNDON, VA 20185
 (703) 265-8707



- SITE PLAN -

Exhibit A 110

TONY ROSAS ASSOCIATES, INC.
 ARCHITECTURE & PLANNING

GRACIE COMMONS
 A.P.# 37-050-54 & A.P.# 05-050-32

DATE: 11/11/11
 SCALE: AS SHOWN
 DRAWN BY: T.R.
 CHECKED BY: T.R.
 PROJECT NO: GRAC-11-110
A-1

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

January 11, 2017

TITLE: Agreement Between County of Nevada and City of Nevada City for Management of the Nevada City Veteran's Building

RECOMMENDATION: Pass a Motion authorizing the Mayor to execute an Agreement with the County of Nevada for management of the Nevada City Veteran's Building.

CONTACT: Dawn Zydonis, Parks & Recreation Supervisor

BACKGROUND / DISCUSSION:

The City and County of Nevada have had a working agreement since 2004 that allows the City to manage the Nevada City Veteran's Building for recreational purposes and community use. The facility is a benefit to the City when Seaman's Lodge is unavailable. It offers additional meeting space for the City and has been a space for community meetings, recreational programs and private functions.

City staff recommends continued management of the space by entering into the attached agreement with the County. There is one change to the Agreement from previous Agreements. That change is related to Possessory Interest Tax. A taxable Possessory Interest may exist whenever there is a private, beneficial use of publicly-owned, non-taxable real property. Such interests are typically found where private individuals, companies or corporations lease, rent or use federal, state or local government owned facilities and/or land for their own beneficial use. Any repeat renters who receive some personal value from their use of the Nevada City Veteran's Building, could be charged a Possessory Interest Tax. The City has been assured that this would not be the case with the single-use renter; the tax would only apply to the person/business/organization who rents the facility on a regular basis and has an assessed value of \$2,000 or more per year. The assessment will be determined by the Assessor's Office. This tax will be charged to the renter directly. The City will not be responsible for the payment of any Possessory Interest Tax, nor will the City receive any portion of that tax.

ENVIRONMENTAL CONSIDERATIONS: None

FISCAL IMPACT: As noted in the agreement, rental fees shall be split 50/50 between the City and the County. Once County costs are met, the City keeps 100% of the rental fees for the facility. During the 2015-2016 fiscal year, the City met the fixed costs amount for the County and was able to keep 100% of the rental fees for a portion of one quarter.

ATTACHMENT:

- ✓ Agreement between the County of Nevada and the City of Nevada City

AGREEMENT
BETWEEN THE COUNTY OF NEVADA
AND THE CITY OF NEVADA CITY

PREAMBLE

This Agreement is made between the **County of Nevada** (hereinafter "County") and the **City of Nevada City** (hereinafter "City"), effective January 1, 2017.

WHEREAS, the Nevada City Veterans Memorial Building (hereinafter "the facility", located at 415 North Pine Street, Nevada City, California; is owned by COUNTY, and

WHEREAS, the facility is used by United States military veterans organizations for a few hours each week; and

WHEREAS, the County and City (collectively, "the parties) have previously entered into Agreements whereby the City uses the facility for the City's recreational and cultural programs; and

WHEREAS, the parties desire to renew their arrangement for use of the facility by the City for public recreational and cultural use under terms and conditions that preserve the availability of the facility for the ongoing regular use by veteran's organizations;

NOW, THEREFORE, the parties agree to the following terms and conditions.

1. **Term:** This agreement shall be effective from January 1, 2017 through December 31, 2020, at which time it may be renewed with or without amendments.
2. **Management Services:** The County grants to the City permission to manage the facility and to use it for City recreational programs and community use. This grant is in the nature of a revocable license under the terms and conditions of this Agreement. The City shall, under its management authority, schedule the facility for community use and/or activities by other public and private groups. The City management services shall include but not be limited to the following: the opening and closing of the facility, the promotion of its use, the scheduling of use, the regular inspection of the facility inside and out, and the accounting for all fee revenue received.
3. **Priority of Use:** The City's license is qualified by the following priorities of use: (1) the facility is home to the Veterans of Foreign Wars (VFW), and the VFW's use shall be first priority if notification is made six months in advance. At any time, if space is needed by the VFW and space is not already rented then VFW may follow the City procedures to use the space. There is no charge to the VFW for use of the space within the building; (2) any County-sponsored use that is scheduled at least six months in advance shall be the second priority; (3) any City-sponsored or City-scheduled use shall be the third priority; (4) other community use shall be on a first-come, first-served basis; and, (5) use of the facility for Emergency Operations shall take priority over any other priority.

4. **Rental Fees:** Rental fees shall be approved and adopted from time to time by the Nevada City City Council, after consulting with the County's Chief Information Officer. The City shall collect, safeguard and account for all fee revenue. No fee exemptions shall be granted except as approved by both the City and the County except as provided herein.
5. **Revenue Sharing:** Each fiscal year, beginning July 1, 2015, the parties shall share all gross revenues equally on a 50-50 basis until County reaches 100% of its fixed cost recovery as detailed in Appendix A, after which time all gross revenues shall be retained by the City until it reaches 100% of its variable cost recovery. After 100% cost recovery by each party, all gross revenues for the remainder of the fiscal year shall be shared in the following manner: 80% to City, 10% to County, and 10% to the Veterans of Foreign Wars for the purpose of defraying any and all direct and indirect expenses incurred because of the intensified use of the facility. Each party shall keep a current and correct accounting of all costs incurred in maintaining and operating the facility.
6. **Parking:** Nine (9) parking spaces in the lot adjacent to the facility shall be designated for use by the City in connection with the City's operation of the facility.
7. **Responsibilities:** The City as manager shall keep the facility clean and in good and safe condition. The County shall at its sole expense be responsible for all repairs beyond those normally undertaken by a custodian. The County shall also remain responsible for capital repairs and improvements when needed, and subject to the extent budgeted by the County in its sole discretion. City is responsible for all utilities, landscaping and grounds maintenance, and other operational costs, except as noted in Appendix A. The City shall provide information to the County of Nevada Assessors Office for the purposes of that office to determine Possessory Interest Taxes. This information will be provided upon request from the Assessor's Office.
8. **Termination:** This Agreement may be terminated by either party for any reason with 90 days' advance notification in writing to the other party.
9. **Insurance:** During the Term of this Agreement, the County shall continue to provide comprehensive property insurance coverage for any damage to the building, and the City shall carry its customary general liability coverage, including premises liability, with the City's coverage being primary in the event of a claim or lawsuit against one or both parties. All parties that rent the facility shall also be required to provide insurance in the limits required by the County and naming the County as additional insured. The City and the County shall provide to each other a current and valid certificate of General Liability Insurance, in the amount of \$1,000,000, naming the other as additional insured.
10. **Indemnification:** Each party hereto shall indemnify, defend and hold harmless the other and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees) which result from the negligent act, willful misconduct, or error or omission of the indemnifying party.

11. **Records:** The parties agree to retain and preserve all relevant records pertaining to the facility for at least two years following termination of this Agreement. Each party shall allow the other to inspect and copy any records that it may need.
12. **Entire Agreement:** This Agreement is the entire agreement of the parties, and no other written or oral evidence shall be construed to be part of this Agreement. The parties may at any time amend this Agreement by mutual consent in writing as necessary to achieve the contractual objectives of the parties.
13. **Notices:** All official contacts, remittances and notices shall be delivered or mailed to the parties as follows:

For the COUNTY OF NEVADA:
Tom Coburn, Facilities Manager
10014 North Bloomfield Road
Nevada City, CA 95959
(530)265-1239

For the CITY OF NEVADA CITY:
Dawn Zydonis, Parks & Recreation
Supervisor
317 Broad Street
Nevada City, CA 95959
(530) 265-2496

IN WITNESS WHEREOF, the COUNTY OF NEVADA and the CITY OF NEVADA CITY have executed this agreement on the day and year set forth below.

NEVADA CITY

COUNTY OF NEVADA:

Evans Phelps
Mayor

Honorable Edward C. Scofield
Chair, Board of Supervisors

Dated: _____

Dated: _____

Attest: _____
Niel Locke
City Clerk

Attest: _____
Julie Patterson Hunter
Clerk of the Board

Approved as to form:

County Counsel

Appendix A

1. County of Nevada expenses for maintenance of the Nevada City Veterans Building:

Property Insurance
Solid Waste Assessment
Ordinary Maintenance and Repairs (except landscaping)

The amount of the County's fixed costs shall be \$8,200 for the period July 1, 2015 through June 30, 2018 and shall increase annually thereafter by the amount of increase in the Consumer Price Index for the State of California, Urban Wage Earners and Clerical Workers.

2. City of Nevada City expenses for maintenance and operation of the Nevada City Veterans Building

Cost Categories:
Custodial services
Landscaping
Facility management
Reservations
Facility attendants
Instructors
Promotion and marketing
Furnishings and supplies
Utilities (gas, electricity, water, sewer)
Solid waste collection, recycling and disposal

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

January 11, 2017

TITLE: Correction to Side Letter No. 1 for the Nevada City Police Officers Association (NCPOA) and Side Letter No. 1 to Correct the Nevada City Police Supervisors and Nevada County Professional Firefighters Local 3800 Memorandum of Understanding (MOU) Implementation Dates

RECOMMENDATION: Review and approve side letters for the NCPOA, Nevada City Police Supervisors and Nevada County Professional Firefighters Local 3800 correcting implementation dates for salary and CalPERS contribution increases.

CONTACT: Catrina Olson, Assistant City Manager

BACKGROUND / DISCUSSION:

In reference to Side Letter No. 1 dated August 24, 2016 to MOU between the City of Nevada City and the Nevada City POA, it has been identified by the Finance and Administration Department that the pay increase date on Side Letter No. 1 references December 24, 2016 as the date for the 2.5% pay increase and the 2.5% increase in member contributions, however, this date is incorrect. For the increases to be fully reflected in the 1st paycheck on January 6, 2017 the implementation date should be December 17, 2016.

Also referencing the MOU's dated July 2, 2016 – June 30, 2018 between the City of Nevada City and the Nevada County Professional Firefighters Local 3800 and Police Supervisors, it was again identified by the Finance and Administration Department that the compensation adjustment effective date identified is December 24, 2016. This date is incorrect. For the increases to be fully reflected in the 1st paycheck on January 6, 2017 the implementation date should be December 17, 2016.

Further, the future compensation adjustment dates and increases to employee CalPERS contributions identified in the MOU's for the Nevada County Professional Firefighters Local 3800 and Police Supervisors are also incorrect. Dates noted in the MOU's for future adjustments are July 1, 2017 and December 23, 2017. The corrected dates should be June 17, 2017 and December 16, 2017.

FISCAL IMPACT:

None

ATTACHMENTS:

- ✓ Side Letter No. 1 to the MOU for the Police Supervisors
- ✓ Side Letter No. 1 to the MOU for the Nevada County Professional Firefighters Local 3800

✓ Side Letter No. 2 to the MOU for Nevada City POA

CITY OF NEVADA CITY
SIDE LETTER NO. 1 TO MEMORANDUM OF UNDERSTANDING

TO: Mark Prestwich, City Manager

FROM: Catrina Olson, Assistant City Manager / Finance Director

SUBJECT: Correct the Police Supervisors Memorandum of Understanding (MOU) Article III – Compensation Plan “Effective Dates” of Implementation for Compensation Adjustments

DATE: January 5, 2017

Pursuant to the MOU dated July 2, 2016 – June 30, 2018 between the City of Nevada City and Nevada City Police Supervisors, it has been identified by the Finance and Administration Department that the Compensation Adjustments for the “Effective Dates”; December 24, 2016 as the date for the 3.0% pay increase, July 1, 2017 as the date for the 4.0% pay increase and December 23, 2017 as the date for the 3.0% pay increase are incorrect as these dates split the pay periods. The pay increases are intended to be reflected in the 1st pay periods of January 2017, July 2017 and January 2018. Additionally, these effective dates pertain to any future Member Contributions for pensions.

The correct “Effective Dates” for the above pay increases and member contributions for pensions are as follows:

- December 24, 2016 is replaced with December 17 2016 (paycheck January 6, 2017)
- July 1, 2017 is replaced with June 17, 2017 (paycheck on July 7, 2017)
- December 23, 2017 is replaced with December 16, 2017 (paycheck on January 5, 2018)

Mark Prestwich, City Manager

Date

Catrina Olson, Asst City Manager

Date

Sergeant W. Paul Rohde

Date

Sergeant Chad Ellis

Date

CITY OF NEVADA CITY
SIDE LETTER NO. 1 TO MEMORANDUM OF UNDERSTANDING

TO: Mark Prestwich, City Manager

FROM: Catrina Olson, Assistant City Manager / Finance Director

SUBJECT: Correct the Nevada County Professional Firefighters, Local 3800 Memorandum of Understanding (MOU) – Item 5. Compensation Plan “Effective Dates” of Implementation for Compensation Adjustments

DATE: January 5, 2017

Pursuant to the MOU dated July 2, 2016 – June 30, 2018 between the City of Nevada City and the Nevada County Professional Firefighters, Local 3800, it has been identified by the Finance and Administration Department that the Compensation Adjustments for the “Effective Dates”; December 24, 2016 as the date for the 3.0% pay increase, July 1, 2017 as the date for the 3.0% pay increase and December 23, 2017 as the date for the 3.0% pay increase are incorrect as these dates split the pay periods. The pay increases are intended to be reflected in the 1st pay periods of January 2017, July 2017 and January 2018. Additionally, these effective date pertain to any future Member Contributions for pensions.

The correct “Effective Dates” for the above pay increases and member contributions for pensions are as follows:

- December 24, 2016 is replaced with December 17 2016 (paycheck January 6, 2017)
- July 1, 2017 is replaced with June 17, 2017 (paycheck on July 7, 2017)
- December 23, 2017 is replaced with December 16, 2017 (paycheck on January 5, 2018)

Mark Prestwich, City Manager

Date

Catrina Olson, Asst City Manager

Date

Sergeant W. Paul Rohde

Date

Sergeant Chad Ellis

Date

**CITY OF NEVADA CITY
SIDE LETTER NO. 2 TO MEMORANDUM OF UNDERSTANDING**

TO: Mark Prestwich, City Manager

FROM: Catrina Olson, Assistant City Manager / Finance Director

SUBJECT: Correction to Side Letter No. 1 regarding the implementation dates of the Police Officers Association Compensation Adjustment for Fiscal Year 2016/17

DATE: January 5, 2017

Pursuant to the Side Letter No. 1 dated August 24, 2016 to Memorandum of Understanding between the City of Nevada City and Nevada City Police Officers Association, it has been identified by the Finance and Administration Department that the pay increase date on Side Letter No. 1 references December 24, 2016 as the date for the 2.5% pay increase. However, this date is incorrect as it splits a pay period. The correct begin pay period date for the pay increase to be fully reflected in the 1st pay period in January 2017 (paycheck on January 6, 2017), should be December 17, 2016.

Additionally, this also applies to the member contributions for their respective retirement plans with an effective date of December 17, 2016 instead of December 24, 2016 (9% for Tier 1 employees, 8% for Tier 2 employees, and half the "Total Normal Cost" for Tier 3 employees).

Mark Prestwich, City Manager

Date

Catrina Olson, Asst City Manager

Date

Tim Ewing, President

Date

Luke Holdcroft, Vice President

Date

Jerry Camous, Labor Representative

Date

**CITY OF NEVADA CITY
DRAFT ACTION MINUTES
REGULAR CITY COUNCIL MEETING OF DECEMBER 14, 2016**

NOTE: This meeting is available to view on the City's website www.nevadacityca.gov – Go to Quick Links and Click on Agendas & Minutes and find the Archived Videos in the middle of the screen. Select the meeting date and Click on Video to watch the meeting. For website assistance, please contact Corey Shaver, Deputy City Clerk at (530) 265-2496, ext 133.

- City Council Meetings are available on DVD. To order, contact City Hall - cost is \$15.00 per DVD.
- Closed Session Meetings are not recorded.

CLOSED SESSION MEETING – 5:30 PM

1. Pursuant to Government Code Section 54956.8, a closed session is requested with negotiators City Manager Mark Prestwich, Assistant City Manager Catrina Olson and Consulting City Attorney Hal DeGraw regarding possible sale of City-owned property.
2. Pursuant to Government Code Section 54956.8 Real Property Transactions: Closed meeting with negotiators, City Manager Mark Prestwich, Contract City Attorney Hal DeGraw to participate in negotiations with representatives of Sierra Fund regarding purchase and/or terms of acquisition of property identified as APN 05-100-69 and 97 (portions).
3. Pursuant to Government Code §54956.9, a closed session is requested to discuss significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: 1 potential case.

Action: Staff to proceed as directed.

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Present: Moberg, Parker, Senum, Vice Mayor Strawser & Mayor Phelps

PLEDGE OF ALLEGIANCE

PROCLAMATION: 15th Annual Wild and Scenic Film Festival

PRESENTATION:

1. BUSINESS FROM THE FLOOR-PUBLIC COMMENT (Per Government Code Section 54954.3)

Please refer to the meeting video on the City's website at www.nevadacityca.gov.

2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:

Please refer to the meeting video on the City's website at www.nevadacityca.gov for additional comments.

3. CONSENT ITEMS:

- A. **Subject:** Fire Activity Report – October 2016, November 2016
Recommendation: Receive and file.
- B. **Subject:** Signs for Providence Mine Brownfields and Prop 84 Clean Up Area
Recommendation: Approve the attached signs for placement on the Environs property as noted on the attached map.
- C. **Subject:** Accounts Payable Report: February – November 2016
Recommendation: Receive and file.

Action: Motion by Strawser, seconded by Parker to approve Consent Items as presented.
(Approved 4 – 0; Senum Absent)

4. APPROVAL OF ACTION MINUTES:

- A. City Council Meeting – November 30, 2016
- B. Special City Council Meeting – November 16, 2016

Action: Motion by Strawser, seconded by Moberg to approve November 30 and November 16, 2016 Minutes as presented.
(Approved 4 – 0; Senum abstained)

5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

- A. **Subject:** Proposed Parking Limitations in Pioneer Park
Recommendation: Provide direction to staff.

Action: Staff to proceed as directed.

- B. **Subject:** Informational Update: Community and Economic Support Program **Recommendation:** Receive and file.

Action: Received and filed.

- C. **Subject:** Monthly Update on City Council Six-Month Strategic Objectives
Recommendation: Receive and file.

Action: Received and filed.

6. PUBLIC HEARINGS:

7. OLD BUSINESS:

- A. **Subject:** Ordinance: Adding Section 3.26 to the Nevada City Municipal Code Relating to a Hotel Investment Incentive Program (Second Reading)
Recommendation: Pass an Ordinance adding Section 3.26 to the Nevada City Municipal Code relating to a Nevada City Hotel Investment Incentive Program.

Action: Motion by Strawser, seconded by Senum to waive further reading and pass an Ordinance amending Chapter 5.28 of the Nevada City Municipal Code relating to Cable Systems and State Video Franchises.
(Approved 5 – 0)

8. NEW BUSINESS:

- A. **Subject:** Ordinance: Adding Chapter 1.22 to Title 1 and Chapter 9.28 to Title 9 of the Nevada City Municipal Code Relating to Establish Administrative Enforcement and Civil Remedies for Safety Violations on Private Property (First Reading)
Recommendation: Waive reading of Ordinance, read title only and introduce for first reading.

Action: Motion by Strawser, seconded by Parker to read title only and introduce for first reading.
(Approved 5 – 0)

- B. **Subject:** Ordinance: Amending Chapter 5.28 of the Nevada City Municipal Code Pertaining to Cable Systems and State Video Franchises (First Reading)
Recommendation: Waive reading of Ordinance, read title only and introduce for first reading.

Action: Motion by Strawser, seconded by Parker to read title only and introduce for first reading.
(Approved 5 – 0)

9. CORRESPONDENCE:

10. ANNOUNCEMENTS:

[Type here]

Please refer to the meeting video on the City's website at www.nevadacityca.gov.

11. CITY MANAGER'S REPORT:

12. ADJOURNMENT – 7:35 p.m.

ATTEST:

Evans Phelps, Mayor

Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

January 11, 2017

TITLE: Monthly Update on City Council Six-Month Strategic Objectives

RECOMMENDATION: Receive and file.

CONTACT: Mark Prestwich, City Manager

BACKGROUND/DISCUSSION: On August 25, 2016, the City Council, Planning Commission and executive staff held a planning retreat to discuss City goals. New three-year goals and six-month strategic objectives to guide the organization were reviewed by the City Council on September 14.

Consistent with the City Council's direction, a monthly status report has been prepared to provide an update on attainment of the Council's six-month objectives. The attached grid outlines the status of each objective and, where appropriate, includes comments to provide additional information about select objectives.

ENVIRONMENTAL CONSIDERATIONS: None.

FINANCIAL CONSIDERATIONS: Not applicable.

ATTACHMENT:

- ✓ 6-Month Strategic Objectives Grid

**NEVADA CITY
SIX-MONTH STRATEGIC OBJECTIVES**

August 25, 2016 – February 15, 2017

THREE-YEAR GOAL: <i>Enhance and maintain the infrastructure and facilities</i>						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By February 15, 2017	Planning Director and Planning Commissioner Skyler Moon	Identify rules and regulations (e.g., streets, trees, sidewalks) for the public and how to simplify them to be more user friendly for citizens and merchants and present recommendations for action to the Planning Commission and City Council.		X		
2. By February 15, 2017	Public Works Superintendent and City Engineer (co-leads) and Council Member Duane Strawser	Identify opportunities and recommend to the City Manager and City Council for action a plan to improve pedestrian friendly environments.		X		
3. By February 15, 2017	Council Member Duane Strawser, Public Works Superintendent and City Engineer	Develop draft maps and schematics and hold community workshops to obtain feedback regarding improved citywide public parking options and present the results to the Planning Commission, City Manager and City Council.		X		Discussion scheduled for January 11, 2017 Council Meeting.
4. By February 15, 2017, contingent upon funding	City Engineer	Procure contractors for reconstruction of the swimming pool shell.		X		Revised plans have been received by the City for rebidding.
5. By February 15, 2017	Assistant City Manager (lead), Public Works Superintendent and City Engineer, with input from the Department Heads	Develop and present to the City Council for action an updated Capital Improvement Plan.		X		

THREE-YEAR GOAL: *Improve and manage fiscal stability and sustainability*

WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By November 8, 2016	Mayor Evans Phelps, working with the City Manager and Executive Team	Provide public information at Public Safety Open Houses related to Measure C.	X			Five Measure C Open Houses were held to provide public information about the November 8 ballot measure.
2. By January 15, 2017 and quarterly thereafter	Assistant City Manager and City Engineer	Report to the City Council the steps to complete a full AB1600 study tied to the citywide Capital Improvement Plan.		X		
3. By February 1, 2017	City Manager	Present to the City Council a Hotel Incentive Program for consideration.	X			Proposal presented at November 9 Council Meeting. First Reading of Ordinance held November 30. Ordinance approved December 14, 2016.
4. By February 15, 2017	Assistant City Manager, in consultation with the Department Directors	Recommend to the City Council for consideration an updated citywide fee structure for non-Enterprise services.		X		

THREE-YEAR GOAL: <i>Reduce homelessness and transient population</i>						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. At the October 26, 2016 City Council meeting	City Planner	Coordinate a County Social Services representative presentation to the City Council regarding a County Homeless Needs Assessment, including mental health needs and services.	X			Michael Heggarty, Nevada County Director of Health & Human Services presented at the October 26 Council Meeting.
2. At the November 9, 2016 City Council meeting	Council Members Duane Strawser and Reinette Senum, working with the Police Chief and with input from the homeless and non-profit organizations at a town hall meeting	Develop a plan to reduce homelessness and present to the City Council.	X			Framework to develop plan to reduce homelessness presented at November 9 Council Meeting.
3. By December 15, 2016	City Council (Reinette Senum-lead)	Consider establishment of a Homeless Advocacy Group to work with other groups and to lobby the State for programs and funding to reduce homelessness.		X		
4. By February 15, 2017	City Planner (lead), Council Member Reinette Senum and Police Chief	Identify potential parameters (e.g., size, costs, zoning, building permits) for a Tiny House Pilot Program and present recommendations/options to the City Council for action.			X	Presentation on density bonus options scheduled for February 22, 2017; Tiny House Pilot concept to be incorporated into Item 2 above.
5. By February 15, 2017	Police Chief and Council Member Reinette Senum, working with Cal Growers	Identify resources (e.g., quality of life issues, lodging) and the enforcement processes for the transient population and update and distribute the information fliers to transients and businesses.		X		

THREE-YEAR GOAL: *Increase community awareness and involvement*

WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. Beginning in October 2016 and bimonthly thereafter	Each Department Head	Present to the City Manager and Supervisor of Parks and Recreation a list of their department's activities for possible inclusion in the City newsletter (included in the water bill) and the City website to inform the public about the activities of the City.		X		
2. By October 15, 2016	Each Department Head	Identify and present to the City Manager and City Council for direction regarding implementation by volunteers at least one area where volunteers can help the City and what they are needed to do.	X			Presentation at October 12, 2016 meeting.
3. By December 15, 2016	City Manager and Management Team	Prioritize volunteer areas for implementation, distribute the activities to appropriate departments or organizations and identify options for development of a Volunteer Program.			X	Presentation scheduled for February 8, 2017.
4. By February 15, 2017	City Manager and Council Member David Parker	Develop and present to the City Council a Community Awareness Program to increase awareness and the number of volunteers for the City.		X		Presentation scheduled for February 8, 2017.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

January 11, 2017

TITLE: Ordinance: Adding Chapter 1.22 to Title 1 and Chapter 9.28 to Title 9 of the Nevada City Municipal Code Relating to Establish Administrative Enforcement and Civil Remedies for Safety Violations on Private Property (Second Reading)

RECOMMENDATION: Waive further reading and pass an Ordinance adding Chapter 1.22 to Title 1 and Chapter 9.28 to Title 9 of the Nevada City Municipal Code relating to Establishing Administrative Enforcement and Civil Remedies for Safety Violations on Private Property.

CONTACT: Timothy A. Foley, Police Chief

BACKGROUND / DISCUSSION: At the November 9, 2016 City Council Meeting, Vice Mayor Strawser and Mayor Phelps requested City staff prepare an ordinance for City Council consideration to address various nuisance behaviors and activities that compromise public health and safety, but are not necessarily unlawful under the existing Municipal Code prohibitions.

The City's Police Department has received neighborhood complaints about select private residences or businesses that have resulted in excessive calls for service. Some of the activity reported includes frequent parties, alleged drug activities, excessive alcohol consumption, loud vulgar language, disturbing the peace, vandalism, harassment, and threats. Similar comments were received via Public Comment testimony to the City Council at the Council meeting of November 30. When these types of behaviors and activities are allowed to repeatedly occur on the same property, the property becomes a chronic nuisance for neighbors and impacts the quality of life, safety and health of the neighborhoods where they are located.

The proposed ordinance is intended to serve as a tool for law enforcement to use to help remedy chronic nuisance properties and deter such behavior. Under the ordinance, property owners who permit, allow, or fail to prevent ongoing behaviors and activities will be subject to administrative and civil penalties. The ordinance permits the Police Chief to issue a written notice of a safety violation after determining four or more verifiable safety violations have occurred within any 12-month period. A failure to cure the safety violation may result in either or both of the following actions and/or fines:

1. Fines of \$1,000 per safety violation; and/or
2. Civil action for injunctive relief, closure of the property for up to one year, and civil penalties in an amount not to exceed \$25,000.

Fines will not be enforced, nor will civil action be commenced if the Police Chief determines the property owner is making a good faith effort to correct the safety

violation. Property owners are permitted a reasonable time to abate the particular violation and a right to appeal citations issued.

The proposed ordinance is modeled after an ordinance in the City of Grass Valley. The Grass Valley staff indicate the ordinance has been an effective tool when communicating with property owners about the need to remedy nuisance behavior at their property.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:

- ✓ Proposed Ordinance and Exhibits

ORDINANCE NO. 2016-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY ADOPTING AND ADDING CHAPTER 1.22 TO TITLE 1 AND CHAPTER 9.28 TO TITLE 9 OF THE NEVADA CITY MUNICIPAL CODE TO ESTABLISH ADMINISTRATIVE ENFORCEMENT AND CIVIL REMEDIES FOR SAFETY VIOLATIONS

WHEREAS, Title 9 of the Nevada City Municipal Code titled Public Peace, Morals and Welfare identifies certain kinds of conduct compromising public health and safety as unlawful and provides penalties for violations; and

WHEREAS, the City of Nevada City has become aware that there are other ongoing behaviors and activities constituting safety violations that compromise public health and safety and should be prohibited; but that are not yet made unlawful under the existing prohibitions of Title 9; and

WHEREAS, it would be desirable to provide administrative enforcement and summary abatement to compel private property owners to prevent or cause such conduct to cease on their property and there is no such administrative enforcement remedy provided for in Title 1 of the Nevada City Municipal Code.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nevada City as follows:

SECTION I:

Chapter 1.22 Administrative Enforcement as set forth in Exhibit "A", attached hereto and incorporated by such reference, is hereby adopted and added to Title 1 of the Nevada City Municipal Code.

SECTION II:

Chapter 9.28 Conduct on Private Property as set forth in Exhibit "B", attached hereto and incorporated by such reference is hereby adopted, and added to Title 9 of the Nevada City Municipal Code.

SECTION III:

It is the intent of the City Council of the City of Nevada City to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions,

paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other entity or circumstance. The City Council of the City of Nevada City hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION IV:

This Ordinance shall become effective thirty (30) days after the adoption date thereof and within fifteen (15) days of the passage of this Ordinance, the City Clerk shall publish this Ordinance in The Union, a newspaper of general circulation.

PASSED AND ADOPTED this ____ day of _____, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
Niel Locke, City Clerk

Evans Phelps, Mayor

Chapter 1.22

ADMINISTRATIVE ENFORCEMENT

Sections:

- 1.22.010 Authority of enforcement officer.**
- 1.22.020 Notice of violation.**
- 1.22.030 Authority to order abatement or impose administrative fine.**
- 1.22.040 Time allowed for abatement.**
- 1.22.050 Imposition of fines and/or penalties.**
- 1.22.060 Payment and collection of administrative penalty.**
- 1.22.070 Appeal of notice of violation or other enforcement action.**
- 1.22.080 Enforcement stayed during appeal.**
- 1.22.090 Appeals hearings.**
- 1.22.100 Decisions of the hearing officer and administrative order.**
- 1.22.110 Judicial review.**
- 1.22.120 Recovery of costs of abatement.**
- 1.22.130 Cost accounts.**
- 1.22.140 Imposition of liens or special assessments.**
- 1.22.150 Summary abatement procedure.**
- 1.22.160 Enforcement methods provided herein not exclusive.**

1.22.010 Authority of enforcement officer.

An enforcement officer shall have the authority to gain compliance with this code, including the power to issue a notice of violation ("NOV") as described below, the power to inspect public and private property, the power to record a notice of violation against any property related to the violation, and the power to carry out the provisions of an

abatement order. An enforcement officer may also issue an abatement order or impose any penalty permitted under this code or any other applicable law as described below.

1.22.020 Notice of violation.

- A. Whenever an enforcement officer finds that a provision of this code has been violated, including, but not limited to, a failure to comply with a condition imposed by any agreement, entitlement, permit, license or environmental document issued or approved by or on behalf of city, city's redevelopment agency, or a failure to comply with any other laws the violation of which constitutes a nuisance condition, and such officer elects to pursue administrative enforcement pursuant to this chapter, he or she may issue the responsible party a NOV. The information on the NOV may include an order requiring the responsible party to appear at a hearing and show cause why a penalty should not be imposed or why such nuisance should not be abated by city at the responsible party's expense. Such NOV shall be served on the responsible party in the manner described in subsection B of this section. The enforcement officer shall include the following information in the NOV:
1. The date and location of the violation, including the address or other description of the location where the violation occurred or is occurring and a brief description of the conditions observed that constitute a violation;
 2. The name(s) of the responsible party(ies), if known;
 3. The code section(s) being violated and a description of the section(s);
 4. Actions required to correct, abate or mitigate the nuisance condition, and a period of time during which action(s) shall be commenced and completed, considering the factors listed in Section 1.22.040 of this chapter;
 5. An order prohibiting the continuation or repeated occurrence of a nuisance condition or violation of this code described in the NOV;
 6. A statement that the person upon whom the NOV is served may appeal the determination that there is/are violation(s) as alleged, that the person who was served with the NOV is the responsible party, or that the amount of any administrative fine imposed is warranted. The NOV will instruct the person being served as to the proper procedure and timeframe for submitting an appeal;
 7. The signature of the citing enforcement officer and city contact information (address, telephone number) for additional information.
- B. The NOV shall be served upon the responsible party or owner personally or by U.S. mail, first class postage prepaid, and if by such mail, it shall be sent to the last known address listed on the most recent tax assessor's records. In the case of personal service, service shall be deemed complete at the time of such delivery. In the case of service by first class mail, service shall be deemed complete at the time of deposit into the U.S. mail. Where service is by first class mail, a copy of the NOV shall be conspicuously posted at the affected property when reasonably practicable for a period of not less than three calendar days prior to the first date that commencement of corrective action or abatement is to be undertaken. The failure to receive a NOV

sent via first class mail shall not affect the validity of any enforcement proceedings under this chapter.

- C. Proof of service shall be certified by a written declaration under penalty of perjury executed by the person effecting service, declaring the date, time, and manner of service, and the date and place of posting, if applicable. The declaration shall be affixed to a copy of the NOV and retained by the enforcement officer.
- D. The failure of a NOV to satisfy all of the requirements of this provision shall not affect the validity of any other enforcement proceedings under this code.
- E. An NOV is not required if the enforcement officer determines that summary abatement is required, pursuant to Section 1.22.150 of this chapter

1.22.030 Authority to order abatement or impose administrative fine.

Subject to the provisions of Section 1.14.010 of this chapter, an enforcement officer shall have the authority to impose the remedies under this chapter, including issuing an abatement order and/or imposing a penalty on the responsible party. Any abatement order or penalty may be included in the NOV or may be sent to the responsible party through a separate notice. If notice of an abatement order or penalty is sent via separate notice, the service of the notice shall follow the procedures described in Section 1.22.000.B of this chapter. If an order to abate a nuisance condition is issued to the responsible party, the order shall advise the party that a failure to abate the nuisance condition in the manner and by the time specified may result in a subsequent order allowing the city to abate, or cause to be abated, the nuisance condition at the responsible party's expense.

1.22.040 Time allowed for abatement.

If an abatement order is issued, the time allowed for abatement shall be a "reasonable time" based upon the circumstances of the particular violation, taking into consideration the means required to abate the violation, the period of time that the violation has existed, and the potential threat to public health and safety created by the violation. If the violation pertains to building, plumbing, electrical, mechanical or other similar structural or zoning issues and does not pose an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, the responsible party shall be provided not less than fifteen days in which to abate or otherwise remedy the violation. The determination of timely compliance, abatement, mitigation or elimination of the violation shall be made by the enforcement officer or other authorized city official.

1.22.050 Imposition of fines and/or penalties.

Any nuisance condition or violation of any provision of this code, including a failure to comply with a condition imposed by any agreement, entitlement, permit, license or environmental document issued or approved by or on behalf of city or city's redevelopment agency, or a failure to comply with any county, state or federal law may subject the responsible party to a penalty imposed pursuant to city's general police powers, and/or Government Code Sections 36901 and 53069.4.

- A. The amount of any penalty that may be imposed for a violation that would otherwise be an infraction shall not exceed the amounts set forth in Government Code Section 36900(b), as amended from time to time. The amount of any penalty that may be imposed for all other violations (i.e., violations that would otherwise be misdemeanors) shall not exceed one thousand dollars per day. In determining the amount of a penalty, the following factors should be taken into consideration:
1. Duration of the violation;
 2. Frequency, reoccurrence, or number of violations by the same person;
 3. Seriousness of the violation and/or its impact on the community and/or the degree of culpability of the responsible party;
 4. Justification, if any, for the existence, or continuance, of the violation;
 5. Whether the violation is susceptible to restoration or other mitigation;
 6. Good faith efforts to mitigate the violation or to come into compliance, pursuant to the terms of the NOV or abatement order;
 7. Sensitivity of any affected resource;
 8. Any profits or other economic benefit realized by the responsible party resulting, directly or indirectly, from the violation;
 9. The city's schedule of administrative penalties; and
 10. Such other factors as justice may require.
- B. Each and every day during any portion of which a nuisance conditions exists or continues may be deemed a separate and distinct violation for purposes of setting the amount of penalty to be imposed. Any penalty imposed will accrue on a daily basis from the date the penalty becomes effective until the violation is corrected.
- C. Any penalty amount is a debt owed to city. In addition to all other means of enforcement, a penalty may be enforced as a personal obligation of the responsible party. If the violation is in connection with real property, a penalty may also be enforced by imposition of a lien or special assessment upon the real property, as described in Section 1.22.140 of this chapter. Any lien or special assessment imposed upon real property shall remain in effect until the penalty is paid in full.
- D. The hearing officer, in its discretion, may suspend the imposition of any applicable penalty for a period of time not to exceed sixty days during which the responsible party has demonstrated a willingness to comply with the order, or has applied for permits required to achieve compliance and such permit applications are actively pending before, or have already been issued by, city, the state, or other appropriate governmental agency, or under any other circumstances that would justify a suspension of the penalty.

1.22.060 Payment and collection of administrative penalty.

- A. If a penalty is imposed and the responsible party fails to appeal the penalty as specified in Section 1.22.070 of this chapter, the responsible party shall pay the amount of the penalty within thirty days of service of the NOV or order imposing same, unless an extension of time is requested by the party against whom the penalty is imposed and the request is granted by the manager of issuing department/division. Any penalty imposed shall be payable to city, or to a collection agency if the penalty has been assigned to a collection agency pursuant to subsection C of this section.
- B. If the amount of any penalty imposed for a violation relating to an affected property has not been satisfied in full within sixty days of the date due and has not been successfully challenged by appeal or in court, the penalty amount may become a special assessment or lien against the affected property, as provided in Section 1.22.140 of this chapter. If city elects to make any penalty a special assessment or lien against the affected property, a statement of the amount due, and any additional costs or expenses that might be recoverable as part of the enforcement action, shall be prepared and submitted to the city council for confirmation in accordance with the procedures described in Section 1.22.130 of this chapter.
- C. Notwithstanding subsection B of this section, the amount of any unpaid penalty may be collected by commencement of a civil action to collect such penalty, or in any other manner provided by law for the collection of debts, including assignment of the debt to a collection agency. Subject to the requirements of this chapter and other applicable law, amounts assigned for collection are subject to collection agency rules, regulations and policies. City shall be entitled to recover any and all costs associated with collection of any such penalty.
- D. The payment of a penalty by or on behalf of any responsible party shall not relieve such party from the responsibility of correcting, removing or abating the nuisance condition, or performing restoration where required, nor prevent further proceedings under this chapter or any other authority to achieve the correction, removal or abatement of the nuisance, or any required restoration.

1.22.070 Appeal of NOV or other enforcement action.

- A. A person or entity named as the responsible party in a NOV, abatement order, or other enforcement action may appeal the determination that there is/are violation(s) as alleged in the NOV, that the person or entity who was served with the NOV or abatement order is the responsible party, that a penalty or the amount of a penalty is warranted, or any other terms of an abatement order.
- B. Any person appealing a NOV, abatement order, or penalty must obtain a "Request for Hearing" form from the city clerk located at the Nevada City City Hall, 317 Broad Street, Nevada City, California 95959 and return it to the city clerk fully completed within fifteen days from the date of service of the NOV or notice of the abatement order or penalty.
- C. At the time of returning the request for hearing form to the city clerk, the person or entity requesting the appeals hearing shall pay an appeals processing fee of two

hundred dollars and shall deposit in advance the amount of any fine. No appeal shall proceed without payment of the fee at the time the appeal is filed provided that the city clerk may waive or defer the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the notice and order, and other factors indicating good faith attempts to comply.

- D. Failure to timely submit a completed request for hearing form or to pay the appeals processing fee of two hundred dollars and advance deposit of any fine constitutes a waiver of the right to appeal, a failure to exhaust administrative remedies and shall preclude judicial review.

1.22.080 Enforcement stayed during appeal.

Enforcement of a NOV, abatement order or penalty shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

1.22.090 Appeals hearings.

- A. An appeals hearing based on a request for hearing shall be set for a date not less than ten days nor more than sixty days from the date the request for hearing form is filed unless the enforcement officer determines that the matter is urgent or that good cause exists for an extension of time, in which case the hearing date may be shortened or extended, as warranted by the circumstances.
- B. A hearing under authority of this section shall be conducted according to the procedures set forth herein. The failure of the responsible party or other interested party to appear at the hearing shall constitute a waiver of the right to such hearing and a failure by such party to exhaust his/her administrative remedies:
 - 1. When a request for hearing is filed, the city clerk shall set the time and place for hearing pursuant to subsection A of this section, and shall serve a notice of hearing either personally or by U.S. mail, first class postage prepaid, to the appellant at the address provided in the request for hearing form. The time for such hearing shall be no sooner than ten days from the date of service of the notice of hearing.
 - 2. At the place and time set forth in the notice of hearing, the hearing officer shall conduct a hearing on the alleged violations. Any responsible party or other interested person(s) may appear and offer evidence as to whether a violation has occurred and/or whether the violation continues to exist, whether the person cited in the NOV is the responsible party for any such violation, or any other matter pertaining thereto. Evidence presented by the enforcement officer or other official of the city tending to show that a violation occurred and that the person named on the NOV is the responsible party shall establish a prima facie case that a violation, as charged, actually existed and that the person named in the NOV is the responsible party for the violation. The burden of proof shall then be on the responsible party to refute such evidence. The standard to be applied for meeting such burden shall be a preponderance of evidence.

3. The hearing officer will consider written or oral testimony or other evidence regarding the violation presented by the responsible party, the owner, the occupant, any officer, employee, or agent of the city, and any other interested party. Evidence offered during a hearing must be credible and relevant in the estimation of the hearing officer, but formal rules governing the presentation and consideration of evidence will not apply.
4. The hearing officer shall conduct the hearing, order the presentation of evidence, and make any rulings necessary to address procedural issues presented during the course of the hearing.
5. After receiving all of the evidence presented, the hearing officer may then deliberate and consider what action, if any, should be taken, or may adjourn the hearing and take the matter under consideration.

1.22.100 Decision of the hearing officer and administrative order.

- A. Within ten days following the conclusion of the hearing, the hearing officer shall make a decision regarding the issues presented during the course of the hearing, and the decision shall be based on a preponderance of the evidence. After making its decision, the hearing officer may issue an administrative order. If the hearing officer finds that no violation occurred, that the violation was corrected within the specified time period, or that the person cited is not the responsible party, the administrative order shall reflect those facts.
- B. The responsible party and any interested party requesting a copy of an administrative order shall be served with a copy of said order in the same manner as used for service of a notice of hearing as described in subsection 1.22.090.B.1 of this chapter. Proof of service of the administrative order shall be certified by a written declaration under penalty of perjury executed by the person effecting service, declaring the date, time, and manner that service was made.
- C. An administrative order shall become effective and enforceable immediately after announcement or service of such order unless the order includes a later effective date. It shall include a statement of the right to have the order judicially reviewed in the manner and in the timeframes specified in Section 1.22.110 of this chapter.
- D. An administrative order may include any combination of the following remedies:
 1. Impose a penalty, subject to Government Code Sections 36900(b) and 53069.4;
 2. Issue a "cease and desist" order requiring the responsible party, or any agent, representative, employee, or contractor of the responsible party, to immediately stop any act, conduct, or condition, that is a violation of this code. A cease and desist order issued pursuant to this section shall be effective upon issuance and shall be served on the responsible party in the manner specified in subsection 1.22.020.B of this chapter;
 3. Require the responsible party to correct or eliminate any violation, including a proposed schedule for correction or elimination of said violation within a reasonable time. If a violation pertains to building, plumbing, electrical, or any

other structural or zoning issues and the violation does not create an immediate threat to health or safety, the responsible party shall be provided at least fifteen calendar days to correct, abate, or otherwise remedy the violation;

4. Require the responsible party, or authorize city, to restore a site or location that has been damaged or disturbed as a result of a violation of this code to a pre-violation condition. Any order authorizing city to undertake restoration efforts shall include provisions for the city to recover all restoration costs and expenses, including administrative expenses, from the responsible party;
 5. Require the responsible party, or authorize the city, to mitigate any damage or disturbance to protected or environmentally sensitive areas as a result of any violation, including without limitation, off-site replacement of damaged or destroyed natural resources where on-site restoration or mitigation is not feasible, as determined by the city. Any order authorizing the city to undertake mitigation efforts shall include provisions for the city to recover all costs of abatement, including mitigation costs and expenses, from the responsible party;
 6. Impose conditions that restrict or regulate the development of, use of, or activity on real property where a nexus exists between the violation(s) and the development, use or activity. Conditions may be imposed until the violations are fully abated. Restrictions and regulations on current or future development, use or activity may include site restoration and/or the suspension or revocation of any entitlements issued by city;
 7. Authorize the city to abate or cause the abatement of a nuisance condition where the responsible party has refused or has otherwise neglected to take steps to correct or eliminate said conditions. Costs may be recovered by the city as a personal obligation and/or through a lien or a special assessment on the affected property as provided in Section 1.22.120 of this chapter;
 8. Sustain, modify, or overrule an abatement order issued by an enforcement officer;
 9. Any other order or remedy that serves the interests of justice.
- E. The city may seek to enforce any administrative order by confirmation from a court of competent jurisdiction. Any administrative order that is judicially confirmed may be enforced through normal enforcement measures, including without limitation, criminal contempt proceedings upon a subsequent violation of such order.

1.22.110 Judicial review.

- A. Any responsible party who is aggrieved by a decision of a hearing officer, or of a board, commission, department, agency, or person authorized to render such a decision on behalf of city pursuant to this chapter, and who has exhausted the administrative remedies provided in this code, or any other applicable law, shall have the right to seek judicial review of such decision by filing a petition for writ of mandate in accordance with Code of Civil Procedure Section 1094.5. A petition for writ of mandate must be filed within ninety days after the administrative decision becomes final (as determined in Code of Civil Procedure Section 1094.6). Notwithstanding

these time limits, where a shorter time limitation is provided by any other law, including that set forth in Government Code Section 53069.4 (see subsection E of this section), such shorter time limit shall apply.

- B. Written notice of the time limitation in which a party may seek judicial review of an administrative decision shall be given to all responsible parties in the matter by city in substantially the following form:

"Judicial review of this decision may be sought by following the procedure outlined in Code of Civil Procedure Section 1094.5. Judicial review must be sought not later than the 90th day following the date on which this decision becomes final, except that where a shorter time is provided by any State or Federal law, such shorter time limit shall apply."

- C. This section shall not be deemed to revive any cause of action or grounds for relief through a special proceeding that is barred by law or equity.
- D. All costs of preparing a record that may be recovered by a local agency pursuant to Code of Civil Procedure Section 1094.5(a) or successor statute shall be paid by the petitioner prior to delivery of the record to petitioner.
- E. Any responsible party against whom a penalty has been imposed and who has exhausted the administrative remedies provided in this code or other applicable law may obtain judicial review of said penalty pursuant to Government Code Section 53069.4 by filing an appeal to the Nevada County Superior Court, subject to the time limits described therein. Any such appeal shall be filed as a limited civil case. Written notice of the subject time limits shall be given to all responsible parties against whom a penalty is imposed in substantially the following form:

"The time within which judicial review of the Penalty imposed by this Order must be sought is governed by Government Code Section 53069.4. Judicial review must be sought not later than 20 days after service of the Order imposing or confirming such Penalty."

1.22.120 Recovery of costs of abatement.

City may elect to recover its costs to abate nuisance conditions, including without limitation, the costs of any appeals hearing (including staff time necessary to prepare for and attend an appeals hearing), any re-inspections required to determine or confirm that compliance has been achieved, production of all staff reports, environmental tests or measurements that are deemed necessary or appropriate by the enforcement officer, third party inspection(s) or consultant services as deemed necessary by the city and any attorney's fees incurred in pursuing enforcement. If city elects at the initiation of an administrative enforcement action or proceeding to seek recovery of attorney's fees, pursuant to Government Code Section 38773.5(b), then the prevailing party shall be entitled to recover attorney's fees in an amount not to exceed the amount of attorney's fees incurred by city in such action. Recovery by City of the costs of enforcement shall be in addition to any penalty imposed on the responsible party.

1.22.130 Cost accounts.

- A. If any order authorizes city to abate a nuisance condition, the city official responsible for such abatement shall keep an accounting of the cost of abatement along with any other recoverable costs, and shall render a written report ("the Cost Report") to the city council showing the cost of removing and/or abating the nuisance condition and describing the work performed. The cost report shall be agendaized as a "public hearing" item by the city clerk at a subsequent city council meeting following the required notice periods.
- B. At least ten days prior to the submission of the cost report to the city council, the city clerk shall cause a copy of the cost report to be mailed to the responsible party and/or to the owner of the property where the nuisance condition existed. If the nuisance concerns real property, a copy of the cost report shall be mailed to the owner(s) at the address shown for such owner(s) on the last tax roll. The city clerk shall also cause a notice of hearing to be mailed to the same person(s) or entity receiving a copy of the cost report. The notice of hearing shall set forth the date, time and location of the city council meeting at which the cost report shall be submitted to the city council.
- C. At the time and place fixed for receiving and considering the cost report, the city council shall hear a summary of the cost report and any objections by the responsible party or property owner against whom such costs are being charged or against whose property an abatement lien or special assessment may be imposed. After considering the cost report and any objections thereto, the city council may make such modifications to the cost report as it deems appropriate, after which the report shall be confirmed by order of the city council.
- D. A copy of a council order confirming costs against the responsible party shall be served on the responsible party within ten days of such order in the manner described in Section 1.22.020.B of this chapter. Any responsible party against whom costs of abatement and any other costs are awarded by council order shall have the right to seek judicial review of such order by filing a petition for writ of mandate in accordance with Code of Civil Procedure Section 1094.5. Such petition must be filed within sixty days of service of the order.

1.22.140 Imposition of liens or special assessments.

- A. Any penalty imposed for violations of this code, including any other codes or statutes that have been incorporated into this code, any administrative costs or other expenses of enforcement, and the cost or expenses associated with the abatement of a nuisance condition that are levied in accordance with this chapter, whether imposed or levied judicially or administratively, may be enforced by the recordation of a lien against the property of the owner of the real property where the nuisance condition existed. Any such lien shall be recorded in the office of the Nevada County recorder, and from the date of recording shall have the force, effect, and priority of a judgment lien. A lien authorized by this subsection shall specify the amount of the lien, that the lien is being imposed on behalf of city, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on

which the lien is imposed, and the name and address of the record owner of the parcel.

- B. Before recordation of a lien authorized by this section, a notice of lien shall be served on the responsible party and/or owner of record of the parcel of land on which the nuisance existed, based on the last equalized assessment roll or the supplemental roll, whichever is more current. The notice of lien shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found, after a diligent search, the notice of lien may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten days and publication thereof in a newspaper of general circulation published in Nevada County.
- C. Any fee imposed on city by the county recorder for costs of processing and recording the lien as well as the cost of providing notice to the owner in the manner described herein may be recovered from the owner in any foreclosure action to enforce the lien following recordation.
- D. As an alternative to the lien procedure described above, any penalty imposed for violations of this code, including any other codes or statutes that have been incorporated into this code, and any costs of enforcement or administration or expenses associated with the abatement of any nuisance levied in accordance with this chapter, whether imposed or levied judicially or administratively, may become a special assessment against the real property where the nuisance condition(s) existed. Any special assessment imposed on real property pursuant to this section may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ordinary municipal taxes. Notice of any special assessment that is levied on real property pursuant to this section shall be given to the owner by certified mail, and shall contain the information set forth in Government Code Section 38773.5(c). All laws applicable to the levy, collection, and enforcement of municipal taxes, including those described in Government Code Section 38773.5(c), shall be applicable to such special assessment.

1.22.150 Summary abatement procedure.

Notwithstanding any other provision of this code, whenever, in the reasonable judgment of the enforcement officer, the existence or continuance of any violation of this code or any nuisance condition poses an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, an enforcement officer may act immediately and without prior notice or hearing to abate such violation or condition. The expense or cost resulting from such summary abatement shall be enforceable as a personal obligation of the responsible party and may be imposed as a lien or a special assessment on real property, as described in Section 1.22.140 of this chapter.

1.22.160 Enforcement methods provided herein not exclusive.

Nothing in this chapter shall prevent city from initiating any other legal or equitable proceeding to obtain compliance or to discourage noncompliance with the provisions of

this code. The enforcement procedures described in this chapter are intended to be alternative methods of obtaining compliance or discouraging noncompliance and are expressly intended to be in addition to any other remedies provided by law or this code. It is the intent of the city council that the immunities prescribed in Penal Code Section 836.5 and Government Code Section 820.2 shall be applicable to the enforcement officer, and any other public officers or employees, acting in the course and scope of employment pursuant to this chapter.

Chapter 9.28

CONDUCT ON PRIVATE PROPERTY

Sections:

9.28.010	Purpose.
9.28.020	Definitions.
9.28.030	Scope of application.
9.28.040	Dual responsibility.
9.28.050	Authority.
9.28.060	Private right of action.
9.28.070	Safety violations.
9.28.080	Safety violations prohibited.
9.28.090	Notice of safety violation.
9.28.100	Notice of administrative citation.
9.28.110	Right to a hearing.
9.28.120	Safety violation enforcement and fines.
9.28.130	Property owner notification.

9.28.010 - Purpose.

The purpose of this chapter is to provide administrative and civil remedies against property owners who permit, allow, or fail to prevent ongoing behaviors and/or activities to occur on their properties that compromise public health and/or safety. It is not the purpose of this chapter to subject property owners to any legal liability resulting from a tenant's actions occurring away from the owner's property.

9.28.020 - Definitions.

The following words and phrases, when used in this chapter, shall be construed as defined in this section, unless it is apparent from the context that they have a different meaning:

"Administrative expenses" shall include, but not be limited to:

1. The costs associated with any hearings before a hearing officer, including, but not limited to, all expenses and charges of the hearing officer relating to any hearing.

2. City's personnel costs, direct and indirect, incurred in enforcing this chapter and in preparing for, participating in, or conducting any hearings subject to this chapter, including, but not limited to, attorney's fees.
3. The cost incurred by the city in documenting the safety violations, including, but not limited to, the actual expense and costs of the city responding to the safety violation(s); investigating and enforcing statutory crimes related to the safety violation, including, but not limited to, court appearances; conducting inspections; attending hearings; and preparing notices, administrative citations, and orders.

"Chief of police" shall mean the chief of police or his/her designee.

"City" means the City of Nevada City.

"Drug related nuisance" means any activity related to the possession, sale, use, or manufacturing of an illegal drug or narcotic that creates an unreasonable interference with the comfortable enjoyment of life, property, or the safety and welfare of the residents of the property, the neighborhood, or the public. These activities include, but are not limited to, any activity commonly associated with illegal drug use and dealing, such as noise, steady foot and vehicle traffic day and night to a particular property, possession of weapons, drug loitering (as defined in California Health and Safety Code Section 11532), possession of stolen property, identity theft, possession of property with serial numbers removed, evidence of forgery or fraud, or other drug related activities.

"Enforcement officer" means any person authorized by the chief of police pursuant to this chapter to enforce violations of this chapter.

"Gang related crime" means any crime motivated by gang membership in which the perpetrator, victim, or intended victim is a known member of a gang.

"Hearing officer" means any person appointed pursuant to chapter 1.22 of the Nevada City Municipal Code to preside over hearings, including those hearings required by this chapter.

"Notice of safety violation" means the notice provided to a property owner and/or tenant indicating that a safety violation has occurred on the property, and that the property owner and tenant may be subject to fines for any additional safety violations.

"Owner" and "property owner" have the same meaning and may be used interchangeably and shall mean the owner or owners of record of the subject real property as shown on the latest equalized tax assessment roll of Nevada County or as otherwise actually known to the chief of police.

"Person" means individual(s), corporations, associations, partnerships, limited liability companies, trustees, lessees, agents and assignees.

"Real property" or "property" have the same meaning and may be used interchangeably and shall mean the lot or parcel of land for which the owner has legal ownership or exercises custody or control thereof.

"Safety violation" means those activities set forth in Section 9.28.070.

"Tenant" means that person(s), visitor(s), or transient(s) utilizing, leasing, residing at, or occupying the real property in question regardless of whether a lease or contract exists between the parties; such occupancy may last for any limited period of time.

"Verifiable safety violation" means:

1. A safety violation observed by a peace officer, as peace officer is defined in the California Penal Code; or
2. A call for law enforcement service to the Nevada City police department by a known person who is identifiable, and provides information to support the existence of a safety violation; or
3. A call for service to the Nevada City police department by an unknown person if the event is substantiated by an identifiable witness or peace officer, as defined by the California Penal Code.

"Visitor" means a person other than the owner or a person holding any possessory interest in the property occupying or using the real property with the knowledge and consent of the owner or the tenant.

9.28.030 - Scope of application.

A. The provisions of this chapter shall apply to all real property whether owner occupied or a rental property, whether residential, commercial, industrial, improved, or unimproved, throughout the city wherein any of the safety violations are found to exist.

B. A criminal conviction is not required for establishing the occurrence of a safety violation pursuant to this chapter.

C. The remedies set forth in this chapter are cumulative and additional to any and all other legal remedies available whether set forth elsewhere in the Nevada City Municipal Code, or any applicable, state or federal laws, rules or regulations.

9.28.040 - Dual responsibility.

A. Every person owning, possessing, or having charge or control of real property within the city is required to manage that property and control the environment thereon in a manner so as not to violate the provisions of this chapter. If the property is not owner occupied, both the owner of real property and the occupying tenant shall be liable for safety violations as set forth in detail herein, regardless of any contract or agreement with any third party regarding the property.

B. Every tenant, occupant, lessee, or holder of any possessory interest in real property shall:

1. Comply with all federal, state, and local laws applicable to the property.
2. Supervise or cause to be supervised anyone utilizing, residing at, or occupying the property, with or without consent of the owner, consistent with this chapter.
3. Maintain the property in a manner so as not to violate the provisions of this chapter

9.28.050 - Authority.

The chief of police shall be responsible for administering and enforcing the provisions of this chapter. The chief of police shall have the authority to designate employees as enforcement officers in conformance with this chapter to assist with enforcement responsibilities of this chapter, including, but not limited to, the issuance of notices of safety violations and/or administrative citations as provided for herein.

9.28.060 - Private right of action.

Notwithstanding any other provision in this chapter to the contrary, if a tenant's conduct or action gives rise to any citation and order under Section 9.28.070 below, a property owner shall have the right, in addition to any other remedies that the property owner may have under the applicable lease, rental agreement, or the California Code of Civil Procedure, to use the citation and order as evidence of a nuisance for purposes of any eviction proceeding.

9.28.070 - Safety violations.

A. Safety violation shall mean any of the following activities or behaviors that occur on a property, or have found to originate from the property or by persons connected to the property:

1. The illegal sale of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Sections 3479 and 3480;
2. The illegal use of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Sections 3479 and 3480;
3. The frequent gathering, or coming and going, of people on the property who have an intent to purchase or use controlled substances;
4. The occurrence of prostitution or the unlawful activities of a criminal street gang, as defined in Penal Code Section 186.22;
5. The repeated making or continuing, or causing to be made, of any noise in violation of standards set forth in Chapter 8.20, which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area;
6. The firing of gunshots or brandishing of weapons by a resident of the property, or by a guest of a resident (except as permissible by law);
7. The occurrence of malicious mischief including vandalism or actions that damage property or cause or attempt to cause personal injury;
8. Arrests or detentions for drunkenness linked to the property or for providing alcoholic beverages to, or permitting consumption of, alcoholic beverages by any person under twenty-one years of age on the property;
9. Harassment of other persons wherein such harassment involves repeated threats of physical harm to others or actions which may cause physical harm to others or to those who report illegal activity or safety violations related to the property.

10. The occurrence of any other criminal activity not specified in this section which threatens the life, health, safety or welfare of the residents of the property, the neighborhood, or the public.
11. Allowing property to degrade to such an extent as to create a safety, environmental or health hazard to those residing therein or to the surrounding community.

B. A safety violation shall be deemed to have originated from a property when it occurs at the property, or the safety violation is verifiable and has occurred within one hundred feet of the property.

9.28.080 - Safety violations prohibited.

A. It is hereby declared a violation of this chapter for a property owner with actual or constructive knowledge, whether through the owner or owner's agent, lessee, sub-lessor, sub-lessee, or occupant, to allow, permit or fail to prevent a safety violation to occur on the real property of the owner.

B. It is hereby declared a violation of this chapter for a tenant to allow, permit or fail to prevent a safety violation to occur on the real property where he/she resides.

9.28.090 - Notice of safety violation.

A. After the chief of police determines four or more verifiable safety violations have occurred within any twelve-month period, the chief of police has the authority to issue a written notice of safety violation to the owner of the property and the tenant. The notice of safety violation shall be served upon the owner of said property by regular mail, to the mailing address indicated on the last equalized assessment roll of the Nevada County Assessor's Office. The notice of violation shall be sent to the tenant by regular mail addressed to the property, or alternatively posted at the property. The service of a notice of violation, as provided in this section, shall be prima facie evidence that the owner or tenant is the person in control of the property and has knowledge of and the conduct or behavior at the property.

B. The notice of safety violation shall include, but not be limited to, the following information:

1. The property where the safety violation occurred, including the tenant's name where known;
2. The evidence of the safety violations occurring on the property and the sections of the Municipal Code being violated;
3. The dates of previous verifiable safety violations and any prior responses by the police department to reports of nuisance or safety violations on the property.

C. The notice shall set forth a reasonable time limit not to exceed thirty days for correcting the safety violation and nuisance and may also set forth:

1. Suggested methods of correction or abatement, including information regarding meeting with the police department and potential methods of correction which may include, but are not limited to, the following:
 - a. Provision of additional interior or exterior lighting;
 - b. The posting of security personnel on the property;
 - c. Installation of appropriate fencing;
 - d. Posting of signs on the property, and provisions in rental applications and agreements, which state that illegal use of controlled substances and other nuisance-creating behaviors on the property shall be grounds for eviction;
 - e. Directing that the property be managed in a manner consistent with federal, state or local law;
 - f. Hiring of a competent resident manager who has experience, education and training in rental property management;
 - g. Posting a sign on the property setting forth the name, address and daytime and evening telephone numbers of the owner or of a local property manager who is authorized to make decisions relating to management of the property;
 - h. Obtaining education and training in rental property management;
 - i. Implementation of a property management program including elements such as effective applicant screening, appropriate rental agreements, and appropriate use of eviction procedures;
 - j. Removal of graffiti; and
2. Notice that administrative penalties and/or administrative costs will be assessed against the responsible person in the event there are further safety violations.

D. The chief of police may grant an extension of time to correct and address a safety violation if, in his/her opinion, good cause for an extension exists. Indicia of good faith may include prompt responses to city communications and requests, active professional property management, and other steps taken to remedy the conditions contributing to the safety violation(s).

9.28.100 - Notice of administrative citation.

A. If the chief of police determines that a subsequent verifiable safety violation exists after the thirty-day period for remedying the safety violation that led to the notice of safety violation, or any extension thereof or that a verifiable safety violation has recurred within twelve months of a notice of safety violation, the chief of police may impose an administrative citation. In the event administrative citations or costs are imposed by the chief of police, the property owner and/or tenant shall be notified in writing of the amount of the administrative citation imposed in accordance with the provisions set forth in this chapter, and this code.

B. In addition to imposing administrative citations or costs, the chief of police or his authorized designee may issue a notice of safety violation.

9.28.110 - Right to a hearing.

A. The property owner may appeal citations issued pursuant to this chapter, pursuant to the procedures set forth in Chapter 1.22 of this code.

B. The hearing shall be scheduled and conducted pursuant to Chapter 1.22 of the this code.

9.28.120 - Safety violation enforcement and fines.

A. A failure to cure the safety violations in violation of this chapter, or additional safety violations after receipt of a notice of violation may result in either or both of the following actions and/or fines:

1. Issuance of administrative citation(s) and/or an order to abate the safety violation(s) with a fine for each and every safety violation not to exceed one thousand dollars (\$1,000.00) for each violation, plus any administrative expenses incurred in the enforcement of this chapter. Each day the safety violation(s) continue shall be deemed a new violation subject to additional citations and fines.
2. Institution of a civil action by the city attorney pursuant to Health and Safety Code Section 11570, et seq., and Penal Code Sections 186.22a or 11225, et seq., for injunctive relief, closure of the property for up to one year, and civil penalties in an amount not to exceed twenty-five thousand dollars (\$25,000.00), which shall constitute a lien on the property. In any civil action brought pursuant to this chapter, the court may award reasonable attorney fees and costs to the prevailing party.

B. Fines will not be enforced, nor will civil action be commenced, if the chief of police determines that the owner is making a good faith effort to abate the safety violation(s).

C. When a notice of safety violation or administrative citation have been issued, the owner of the property and any tenant shall be jointly and severally responsible for each successive safety violation incident occurring on the property and shall be jointly, severally and individually responsible for payment of any and all costs associated with each successive safety violation.

D. The property owner and/or tenant may appeal administrative citations issued pursuant to this chapter by following the procedures set forth in Chapter 1.22 of this code.

9.28.130 - Property owner notification program.

A. Property owners in the city may apply with the police department for notification when the Nevada City Police Department responds to a response call, verifiable safety violation, or other incident at a property. The owner will need to provide proof of ownership of the property at the time of enrolling in the property owner notification program. Property owners enrolled in the program have a duty to notify the police department upon change of ownership of the property.

B. By establishing a property owner notification program, the city in no way guarantees that an owner will receive notification each time the police department responds to the property; instead, this enrollment is voluntary and a courtesy to the property owners.

C. The police chief shall be responsible for administering the program, and may establish rules, procedures and an application in order to carry out this program.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

January 11, 2017

TITLE: An Ordinance of the City of Nevada City Amending Chapter 5.28 of the Nevada City Municipal Code Pertaining to Cable Systems and State Video Franchises

RECOMMENDATION: Waive further reading and pass an Ordinance amending Chapter 5.28 of the Nevada City Municipal Code relating to Cable Systems and State Video Franchises.

CONTACT: Hal DeGraw, City Attorney

BACKGROUND: Chapter 5.28, establishing procedures and regulations for granting franchises for cable systems and open video systems, was adopted in 2004 when those franchises to cable companies were being issued by local governmental entities. In June of 2006, the County collectively negotiated with Comcast to become a cable television provider in Nevada County resulting in 10-year franchises to provide cable services for Nevada City, Grass Valley and most of western Nevada County.

Subsequent to the County entering into those franchise agreements, the California legislature enacted the Digital Infrastructure and Video Competition Act of 2006 (DIVCA). Under DIVCA, the California Public Utilities Commission (CPUC), rather than local governments, became the sole franchising authority for cable service providers in California. At the June 27, 2016, expiration of the County's cable franchises with Comcast, those franchises converted to State franchises to be administered by the CPUC.

Although the transition was virtually seamless, the new State franchising procedure rendered county and city ordinances premised upon local issuance of franchises for cable systems and open video systems obsolete and in need of amendment to reflect the new franchising procedures under DIVCA. In July, the County extensively revised its ordinance to implement DIVCA and it has advised the cities to do so as well.

DISCUSSION: The proposed City Ordinance parallels the County changes in implementing DIVCA, totally repealing the section on applications to the city for open video systems because that procedure is no longer available under DIVCA. We have worked closely with County Counsel's office to coordinate our efforts.

There are two ongoing financial benefits that accrue to local government from the cable franchises that make it important to amend our cable systems ordinance. First, the cable companies pay franchise fees equaling 5% of their gross revenues as unrestricted revenue to the general fund of local governments. The County ordinance amendment addresses imposing and collecting those fees in the unincorporated area. Nevada City needs to amend its ordinance so that it can collect franchise fees at the same rate within its City boundaries. Second, the cable providers collect from their customers and remit a fee to support the four Public, Educational and Government (PEG) access channels with funds for facilities and equipment. These PEG fees were set in Nevada County at the rate of \$0.60 per subscriber per month. Under DIVCA, local entities that have been receiving PEG fees may, by ordinance, establish a PEG fee based upon gross revenues that is no greater than the fee previously imposed. The PEG fee of 1.4% of gross revenues imposed in the County amendment and in the proposed City ordinance amendment reflects the PEG fees earned at the per customer rate plus grants received by the County and cities. In the past, these fees collected in the City have been part of the PEG fees transferred to NCTV for their

operations. The County is contemplating a new arrangement and will be contacting the cities in this regard

FINANCIAL CONSIDERATIONS: In order to continue receiving franchise fees for cable systems operating within the City, Nevada City needs to amend its ordinance to impose that fee.

ORDINANCE NO. 2016-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY REPEALING AND RE-ADOPTING AS AMENDED CHAPTER 5.28 OF THE NEVADA CITY MUNICIPAL CODE REGULATING CABLE SYSTEMS AND OPEN VIDEO SYSTEMS TO IMPLEMENT THE STATE DIGITAL INFRASTRUCTURE AND VIDEO COMPETITION ACT OF 2006

WHEREAS, Chapter 5.28 of the Nevada City Municipal Code regulated cable systems and open video systems at a time when franchises for cable television providers were issued and regulated locally; and

WHEREAS, the California legislature subsequently enacted the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) making the California Public Utilities Commission (CPUC) the sole franchising authority and converting local franchises to State franchises upon expiration on June 27, 2016; and

WHEREAS, it is necessary for the City to revise its Municipal Code provisions relating to Cable Systems and Open Video Systems to reflect and implement the revised franchising regulations to continue receiving franchise fees and public education and government (PEG) fees, and to delete superseded provisions reflecting regulations related to locally issued franchises and open video systems.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nevada City as follows:

SECTION I:

Chapter 5.28 Cable Systems and Open Video Systems, together with Appendices A and B, are hereby revoked and repealed, being replaced by the updated amended provisions adopted by this Ordinance.

SECTION II:

There is hereby added to the Nevada City Municipal Code a new updated Chapter 5.28 Cable Systems and State Video Service Franchises amended to read as set forth in Exhibit "A", attached hereto and incorporated by such reference.

SECTION III:

It is the intent of the City Council of the City of Nevada City to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section,

subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other entity or circumstance. The City Council of the City of Nevada City hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION IV:

This Ordinance shall become effective thirty (30) days after the adoption date thereof and within fifteen (15) days of the passage of this Ordinance, the City Clerk shall publish this Ordinance in The Union, a newspaper of general circulation.

PASSED AND ADOPTED this ____ day of _____, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Evans Phelps, Mayor

ATTEST: _____
Niel Locke, City Clerk

Chapter 5.28

CABLE SYSTEMS AND STATE VIDEO SERVICE FRANCHISES

Sections:

5.28.005	Definitions.
5.28.010	General.
5.28.020	Special rules applicable to state video service franchises.
5.28.030	Repealed.
5.28.040	Miscellaneous.

5.28.010 - Definitions.

For the purposes of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; and words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined in this chapter shall have the same meaning as in Title 47 of the United States Code (Sections 521 et seq.), and, if not defined therein, the California Public Utilities Code (CPUC) Sections 5800-5970, and if not defined therein, their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and "including" and "include" are not limiting. The words "shall" and "will" are mandatory, but use of those terms grants no private rights to any person with respect to the County or City. References to governmental entities or officials, whether persons or entities, refer to those entities or their successors in authority. If specific provisions of law referred to in this chapter are renumbered, then the reference shall be read to refer to the renumbered provision. References to laws, ordinances or regulations shall be interpreted broadly to cover government actions, however nominated, and include laws, ordinances and regulations now in force or hereinafter enacted or amended.

"Access," "PEG access," or "PEG use" means the availability of a cable system or open video system for public, education or government use (including institutional network use) by various agencies, institutions, organizations, groups, and individuals, including city of Nevada City and its designated access providers, to acquire, create, and distribute programming not under a franchisee's editorial control, including, but not limited to:

1. "Public access" or "public use" means access where organizations, groups, or individual members of the general public, on a non-discriminatory basis, are the primary or designated programmers or users having editorial control over their communications;
2. "Education access" or "education use" means access where accredited educational institutions are the primary or designated programmers or users having editorial control over their communications;

3. "Government access" or "government use" means access where government institutions or their designees are the primary or designated programmers or users having editorial control over their communications.

"Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

"Basic service" means any service tier regularly provided to all subscribers which includes the retransmission of local television broadcast signals.

"Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C. Sections 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.

"Cable communications system" refers to cable system.

"Cable service" means:

1. The one (1) way transmission to subscribers of (a) video programming, or (b) other programming service; and
2. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"Cable system" is defined as set forth in Section 522(7) of Title 47 of the United States Code.

"Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television signal whether in an analog or digital format. The definition does not restrict the use of any channel to the transmission of analog television signals or one (1) way transmission.

"City" means the city of Nevada City and all departments, divisions, and agencies established by state law or by the city of Nevada City Municipal Code.

"City manager" means the city of Nevada City executive officer or his/her designee.

"Construction, operation or repair" and similar formulations of that term means the named actions interpreted broadly, encompassing, among other things, installation, extension, maintenance, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready, and excavation.

"County" means the County of Nevada and all departments, divisions, and agencies established by state law or by the Nevada County General Code.

"CPUC" refers to the California Public Utilities Code.

"Downstream channel" means a channel designed and activated to carry a transmission from the headend to other points on a cable communications system, including interconnections.

"FCC" means the Federal Communications Commission.

"Franchise" means an initial authorization, or renewal of an authorization, issued by a franchising entity, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of any network in the right-of-way capable of providing video service to subscribers, as defined in CPUC 5830(f).

"Franchise area" means the area of the city of Nevada City that a franchisee is authorized to serve by the terms of its franchise or by operation of law.

"Franchisee" means a person holding a cable communications system franchise.

"Franchise Fee" means the fee adopted pursuant to CPUC Section 5840 paid in consideration of the grant and exercise of a franchise to construct, install, operate, or provide cable system services.

"Gross revenues" means all revenue actually received by the holder of a state franchise as defined in CPUC Section 5860(d). "License" means the legal authorization, terminable at will, to use a particular, discrete, and limited portion of the public rights-of-way to construct, operate, or repair a cable system.

"Nevada County Administrator" means the Nevada County Executive Officer or his/her designee.

"Operator," when used with reference to a system, means a person:

1. Who directly or through one (1) or more affiliates provides service over a cable communications system and directly or through one (1) or more affiliates owns a significant interest in such facility; or
2. Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a facility.

"OVS" means an open video system previously provided for pursuant to Section 5.28.030.

"Person" means and includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not Nevada County nor the city of Nevada City.

"Public property" means any property that is owned or under the control of the city of Nevada City that is not a public right-of-way, including, for purposes of this chapter, but not limited to, buildings, parks, poles, structures in the public rights-of-way such as utility poles and light poles, or similar facilities or property owned by or leased to the city of Nevada City.

"Public rights-of-way" means the surface of and the space above and below any street, road, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway, drive, or right-of-way or easement primarily dedicated to travel, now or hereafter existing, within the city of Nevada City which may be properly used for the purpose of installing, maintaining, and operating a cable communications system; and any other property that a franchisee is entitled by state or federal law to use by virtue of the grant of a franchise.

"Revocation" means Nevada County's or the city of Nevada City's affirmative act of terminating a franchise.

"School" means any accredited primary school, secondary school, college, and university.

"Subscriber" means Nevada County or the city of Nevada City or any person who is lawfully receiving, for any purpose or reason, any cable service via a cable communications system with franchisee's express permission, whether or not a fee is paid for such service.

"Termination" means the conclusion of a franchise by any means, including, but not limited to, by expiration of its term, abandonment, or revocation.

"Transfer" means any transaction in which:

1. All or a portion of any facilities or any rights to use or operate facilities located in the public rights-of-way are sold, conveyed, transferred, assigned, encumbered or leased, in whole or in part, directly or indirectly, by one (1) or more transactions to another person, whether voluntarily or by operation of law or otherwise; or
2. There is any change, acquisition, or transfer in the identity of the person in control of the franchisee, or any person that controls the franchisee, including, without limitation, forced or voluntary sale, merger, consolidation, or receivership; or
3. The rights or obligations under the franchise are sold, conveyed, transferred, assigned, encumbered or leased, in whole or in part, directly or indirectly, by one (1) or more transactions to another person, whether voluntarily or by operation of law or otherwise.

"Unaffiliated video programming provider" or "UVPP" means any person who uses capacity on a franchised cable system to deliver cable service or other communications service (as that term is used in 47 U.S.C. Section 542(h)) to subscribers and who is not an affiliate of the franchisee.

"Upstream channel" means a channel designed and activated to carry transmissions from a point on the cable system, other than the headend, to the headend or another point on the cable system.

"User" means a person or the city of Nevada City utilizing a channel, capacity or equipment and facilities for purposes of producing or transmitting video, voice and data materials contrasted with receiving it in the capacity of a subscriber.

5.28.010 - General

- A. Franchise Required. No person may construct or operate a cable communications system in the city of Nevada City without first obtaining a franchise; provided that the following shall not be required to obtain a franchise under this chapter:
 - 1. Nevada County or the city of Nevada City; or
 - 2. A UVPP that is only delivering cable service or other communications service (as that term is used in 47 U.S.C. Section 542(h)) to subscribers.
- B. Possessory Interest of Public Property. A franchise granted pursuant to Article 2 of the Nevada County General Code or this chapter shall notify the franchisee of potential tax liability for property taxes pursuant to California Revenue and Tax Code Section 107.6.
- C. Failure to Obtain a Franchise. Consistent with the requirements of due process, a person's failure to obtain a franchise as required by this chapter may, in the City's discretion, result in:
 - 1. Forfeiture, by operation of law, of the person's facilities located in the public rights-of-way that are not authorized by an existing franchise; and/or
 - 2. A City or County order and/or court order that the facilities be removed, and that penalties and damages be paid as set forth in the County General Code or in state law.
- D. Existing Franchises. Franchisees existing as of the effective date of the ordinance codified in this chapter shall, in addition to all the obligations and duties prescribed by the terms of their existing franchises, be subject to the substantive and procedural requirements herein, except as prohibited by applicable law. Nothing in this chapter is intended to invalidate a lawful, existing franchise or to waive any obligations imposed by such a franchise.
- E. Administration of Chapter; Adoption of Regulations.
 - 1. Adoption of Regulations. The city of Nevada City may from time to time adopt regulations to implement the provisions of this chapter.
 - 2. Delegation. The city manager or its designees are hereby authorized to administer the provisions of this chapter and any franchise issued to operate within the incorporated area of the city of Nevada City, and to provide any notices (including noncompliance notices) and to take any action on the city of Nevada City's behalf that may be required under this chapter or under applicable law.
 - 3. No Waiver. The failure of Nevada County or the city of Nevada City, upon one (1) or more occasions, to exercise a right or to require compliance or performance under a franchise or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing.
 - 4. Administration of Public, Educational and Government Access. Nevada County may designate one (1) or more entities, including itself and/or the city of Nevada City, to control and manage the use of public, educational and government access channels, facilities and equipment.
- F. General Conditions upon Construction, Operation and Repair.
 - 1. Franchisee Must Follow Local Rules. The construction, operation, and repair of cable communications systems shall be performed in compliance with all laws, ordinances, departmental rules, regulations, and practices affecting such system. By way of example, and not limitation, this includes zoning and safety codes, construction standards, regulations for providing notice to persons that may be affected by system construction, and directives governing the time, place and manner in which facilities may be installed in the rights-of-way. Persons engaged in the construction, operation, or repair of communications facilities shall exercise reasonable care

in the performance of all their activities and shall use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public or to property.

2. No Permit without Franchise. A franchise is required before a permit may be issued for work associated with the construction of a cable communications system. Any permit issued for such work to a person that does not hold a franchise shall vest no rights in the permittee; the permit may be revoked at will, and the permittee shall remove all facilities installed under the permit upon the city of Nevada City's demand.
3. Permits Must be Obtained. Construction, operation, or repair of a cable communications system [in the city of Nevada City](#) shall not commence until all required permits have been obtained from the proper [city of Nevada](#) City officials and all required fees have been paid. All work performed will be performed in strict accordance with the conditions of the permit. Upon order of the city of Nevada City, any work and/or construction undertaken that is not completed in compliance with the city of Nevada City's requirements, or which is installed without obtaining necessary permits and approvals shall be removed.
4. No Interference. Interference with the use of the public rights-of-way by others, including others that may be installing cable communications systems, must be minimized. The city of Nevada City may require a person using the rights-of-way to cooperate with others through joint trenching and other arrangements to minimize adverse impacts on the rights-of-way.
5. Plans for and Publicizing Work. Work shall be publicized as the city of Nevada City may direct from time to time. The publication of work may be used to notify the public and operators of other communications systems, of the impending work, in order to minimize inconvenience and disruption to the public.
 - a. Each franchisee shall provide the city of Nevada City a plan for any initial system construction, or for any substantial rebuild, upgrade or extension of its facility, which shall show its timetable for construction of each phase of the project, and the areas of the city that will be affected.
 - b. The [city-City](#) manager may from time to time, when the [city-City](#) receives [an](#) application for a permit to use a particular route, or upon the [city-City](#) manager's own initiative, designate by published order a route or proposed route for installation of communications facilities and may (i) require all persons who wish to emplace underground facilities along that route or any part thereof to install them during a specified period, provided all costs are shared equitably and (ii) otherwise prohibit initial emplacement of such facilities along the route or any part thereof for twenty-four (24) months or after such other longer period as is necessary to protect the public interest.
6. Existing Poles to be Used. To the extent possible, operators of cable communications systems shall use existing poles and conduit. Additional poles may not be installed in the right-of-way; nor may pole capacity be increased by vertical or horizontal extenders, without the permission of the city manager.

To minimize disruption of public passage or infrastructure, to forestall or relieve exhaustion of rights-of-way capacity, or to protect environmentally sensitive areas, the [city-City](#) manager may require as a condition of issuing any rights-of-way permit for erection of new poles or construction of underground conduit, the installation of which requires excavation of or along any traveled way that the franchisee, licensee, or holder of the rights-of-way permit provide pole space or empty conduits in excess of its own present and reasonably foreseeable requirements for the purpose of accommodating the city and/or other franchisees and licensees.

7. Undergrounding.
 - a. Whenever all existing utilities are located underground in an area in the city of Nevada City, every cable communications system operator in the same area must locate its cable communications system underground.

- b. Whenever the owner of a pole locates or relocates underground within an area of the city of Nevada City, every cable communications system operator in the same area shall concurrently relocate its facilities underground.
 - c. The City may, for good cause shown, exempt a particular system or facility or group of facilities from the obligation to locate or relocate facilities underground, where relocation is impractical, or where the [city-City](#) and the subscriber's interest can be protected in another manner. Nothing in subsection (F)(7)(a) of this section prevents the city of Nevada City from ordering communications facilities to be located or relocated underground.
8. Prompt Repairs. Any and all public rights-of-way, other public property, or private property that is disturbed or damaged during the construction, operation, maintenance or repair of a cable communications system shall be promptly repaired by the operator. Public property and public rights-of-way must be restored to the satisfaction of the city of Nevada City or to a condition as good or better than before the disturbance or damage occurred.
 9. Movement of Facilities for Government.
 - a. A cable communications system operator shall, by a time specified by the city of Nevada City, protect, support, temporarily disconnect, relocate, or remove any of its property when required by the city of Nevada City by reason of traffic conditions; public safety; public right-of-way construction and repair (including regrading, resurfacing or widening); public right-of-way vacation; construction, installation or repair of sewers, drains, water pipes, power lines, signal lines, tracks, or any other type of government-owned system or utility, public work, public facility, or improvement; or for any other purpose where the work involved would be aided by the removal or relocation of the cable communications system. Collectively, such matters are referred to below as the "public work."
 - b. Except in the case of emergency, the city of Nevada City shall provide written notice describing where the public work is to be performed at least one (1) week prior to the deadline by which a cable communications system operator must protect, support, temporarily disconnect, relocate or remove its facilities. However, in an emergency, or where a cable communications system creates or is contributing to an imminent danger to health, safety, or property, the city of Nevada City may protect, support, temporarily disconnect, remove, or relocate any or all parts of the cable communications system without prior notice, and charge the cable communications system operator for costs incurred.
 10. Movement for Others.
 - a. To accommodate the construction, operation, or repair of the facilities of another person authorized to use the streets or public property, a franchisee shall, by a time specified by such person, protect, support, temporarily disconnect, relocate or remove its facilities. The franchisee must be given written notice describing where the construction, operation or repair is to be performed at least fifteen (15) days prior to the time by which its work must be completed. The city of Nevada City may resolve disputes as to responsibility for costs associated with removal, relaying, or relocation of facilities among entities authorized to install facilities in the streets or on public property if such entities are unable to do so themselves.
 - b. A cable communications system operator shall, on the request of any person holding a valid permit issued by a governmental authority, temporarily raise or lower its wires by a time specified to permit the moving of buildings or other objects. A cable communications system operator shall be given not less than seven (7) days' advance notice to arrange for such temporary wire changes. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same.
 11. Abandonment in Place.
 - a. A cable communications system operator may abandon any property in place in the public rights-of-way upon written notice to the city of Nevada City. However, if, within ninety (90)

days of the receipt of written notice of abandonment, the city of Nevada City determines that the safety, appearance, functioning or use of the public rights-of-way and facilities in the public rights-of-way will be adversely affected, the property must be removed by a date specified by the city of Nevada City.

- b. A cable communications system operator that abandons its property must, upon request, transfer ownership of the properties to the city of Nevada City at no cost, and execute necessary quitclaim deeds and indemnify the city of Nevada City against future costs associated with mitigating or eliminating any environmental hazard associated with the abandoned property.

12. System Subject to Inspection. Every cable communications system shall be subject to inspection and testing by the city of Nevada City. Each operator must respond to requests for information regarding its system and plans for the system as the city of Nevada City may from time to time issue, including requests for information regarding its plans for construction, operation and repair and the purposes for which the plant is being constructed, operated, or repaired.
13. Underground Services Alert. Each operator of a cable communications system that places facilities underground shall be a member of the regional notification center for subsurface installations (underground services alert) and shall field mark the locations of its underground communications facilities upon request. The operator shall locate its facilities for the city of Nevada City at no charge.
14. Plan for Construction. Every franchise shall specify for the city of Nevada City a construction schedule that will apply to any required construction, upgrade, or rebuild of the cable communications system. The schedule shall provide for the prompt completion of the project, shall show its timetable for construction of each phase of the project, with benchmarks for deliverables and the areas of the city of Nevada City that will be affected. The city of Nevada City shall have the right to impose penalties on the operator for a failure to meet the accepted timetable and benchmarks.
15. Use of facilities by the city of Nevada City. The city of Nevada City shall have the right to install and maintain, free of charge, upon any poles or in any conduit owned by a franchisee any wire and pole fixtures that do not unreasonably interfere with the cable service operations of the franchisee.

G. Protection of City of Nevada City and Residents.

1. Indemnity Required. No ~~franchise permit issued for work associated with construction of a cable communications system~~ shall be valid or effective until and unless the city of Nevada City obtains an adequate indemnity from the franchisee. The indemnity must:
 - a. Release the city of Nevada City from and against any and all liability and responsibility in or arising out of the construction, ~~operation or maintenance~~ of the cable communications system. ~~Each cable communications system operator must further agree not to sue or seek any money or damages from the city of Nevada City in connection with the above-mentioned matters; and~~
 - b. Indemnify and hold harmless the city of Nevada City, its trustees, elected and appointed officers, agents, and employees, from and against any and all claims, demands, or causes of action of any kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees sustained by the city of Nevada City or any third party arising out of, or by reason of, or resulting from or of the acts, errors, or omissions of the cable communications system operator, or its agents, independent contractors or employees related to or in any way arising out of the construction, ~~operation or repair~~ of the system; ~~and~~
 - c. ~~Provide that the covenant and representations relating to the indemnification provision shall survive the term of the franchise or other authorization and continue in full force and effect as to the party's responsibility to indemnify.~~

2. ~~Insurance Required. A franchisee (or those acting on its behalf) shall not commence construction or operation of the system without obtaining insurance in amounts and of a type satisfactory to the city of Nevada City. The required insurance must be obtained and maintained for the entire period the franchisee has facilities in the rights-of-way. If the franchisee, its contractors, or subcontractors do not have the required insurance, the city of Nevada City may order such entities to stop operations until the insurance is obtained and approved.~~
3. ~~Proof. Certificates and endorsements of insurance, reflecting evidence of the required insurance and naming the city of Nevada City as an additional insured, and other proofs as the city of Nevada City may find necessary, shall be issued to the city of Nevada City. For persons issued franchises after the effective date of the ordinance codified in this chapter, certificates and other required proofs shall be filed within thirty (30) days of the issuance of a franchise, prior to the commencement of construction, at policy renewal, and whenever there is any change in coverage. For entities that have facilities in the public rights-of-way as of the effective date of this chapter, the certificate and endorsements shall be issued within sixty (60) days of the effective date of this chapter, at policy renewal, and whenever there is any change in coverage, unless a pre-existing franchise provides for filing of certificates in a different manner. In the event that the insurance will terminate or lapse during the term of the franchise or license, then in that event, the cable communications system operator shall furnish, at least thirty (30) days prior to the expiration of such insurance, a new or renewed certificate of insurance as proof that the required coverage has been obtained.~~
4. ~~Endorsement Contents. Endorsements shall contain a provision that coverages afforded under these policies will not be canceled, modified, suspended or non-renewed unless at least thirty (30) days' prior written notice has been given to the city of Nevada City. Endorsements shall name the city of Nevada City and its officers, employees, agents and volunteers as additional insureds and shall specify that the franchisee's policy is primary, the city of Nevada City's insurance is excess and non-contributing and shall contain a cross-liability clause. The endorsement shall also declare its "SIR" or deductibles, which amounts must be acceptable to the city of Nevada City. Policies shall be issued by companies authorized to do business under the laws of the state of California. Financial ratings must be no less than "A VII" in the latest edition of "Bests Key Rating Guide", published by A.M. Best Guide, or as otherwise approved by the city administrator.~~
5. ~~Insurance Amounts. A cable communications system operator (and those acting on its behalf to construct or operate the system) shall maintain the following minimum insurance. The city of Nevada City shall be named as an additional insured on the general liability and automotive policies; those insurance policies shall be primary and contain a cross-liability clause.

 - a. ~~Comprehensive general liability insurance to cover bodily injury, death, and property damage. Exposures to be covered are: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:~~~~

Bodily Injury	
—Each Occurrence	\$1,000,000
—Annual Aggregate	\$3,000,000
Property Damage	
—Each Occurrence	\$1,000,000

—Annual Aggregate	\$3,000,000
Personal Injury	
—Annual Aggregate	\$3,000,000

-

~~Completed operations and products liability shall be maintained for two (2) years after the termination of the franchise or license (in the case of the cable communications system owner or operator) or completion of the work for the cable communications system owner or operator (in the case of a contractor or subcontractor).~~

~~Property damage liability insurance shall include coverage for the following hazards: X - explosion, C - collapse, U - underground.~~

- ~~b. Workers' compensation insurance shall be maintained during the life of this contract to comply with statutory limits for all employees, and in the case any work is sublet, each cable communications system operator shall require the subcontractors similarly to provide workers' compensation insurance for all the latter's employees unless such employees are covered by the protection afforded by each cable communications system operator. Each cable communications system operator and its contractors and subcontractors shall maintain during the life of this policy employers' liability insurance. The following minimum limits must be maintained:~~

Workers' Compensation	Statutory Limits
Employer's Liability	\$1,000,000 per occurrence

-

- ~~c. — Comprehensive Auto Liability.~~

Bodily Injury	
—Each Occurrence	\$1,000,000
—Annual Aggregate	\$3,000,000
Property Damage	
—Each Occurrence	\$1,000,000
—Annual Aggregate	\$3,000,000

~~Coverage shall include owned, hired, and non-owned vehicles. In every franchise or license agreement, the city of Nevada City shall reserve the right to require any other insurance coverage it deems necessary depending upon exposures.~~

~~62. Construction Bonds. Every operator of a franchisee constructing a cable communications system within the city of Nevada City for which a permit is required shall obtain and maintain bonds during periods of rebuild or upgrade of constructing the cable system to ensure the faithful performance of its responsibilities under this chapter and any franchise. The amount of the performance and payment bonds shall be set by the city City manager, but shall not be less than ten (10) percent of the estimated cost of constructing or (in the case of existing systems) upgrading the system, and including a sufficient amount to cover the removal of facilities and/or restoration of city facilities within the right-of-way. The bond is not in lieu of any additional bonds that may be required through the permitting process. The bond shall be in a form acceptable to the city attorney. Bonds must be obtained prior to the effective date of any franchise, transfer or franchise renewal permit, unless the city City manager specifically provides otherwise.~~

~~7. Security Fund. Every cable communications system operator shall establish and maintain a cash security fund or provide the city of Nevada City an irrevocable letter of credit in the amount of one hundred thousand dollars (\$100,000.00) to secure the payment of fees owed, to secure any other performance promised in a franchise, and to pay any taxes, fees or liens owed to the city of Nevada City. The letter of credit shall be in a form and with an institution acceptable to the city of Nevada City's city manager and in a form acceptable to the city attorney. Should the city of Nevada City draw upon the cash security fund or letter of credit, the cable communications system operator shall, within fourteen (14) days, restore the fund or the letter of credit to the full required amount. This security fund/letter of credit may be waived or reduced by the city of Nevada City for a franchisee where the city of Nevada City determines in its discretion that a particular franchisee's operations are sufficiently limited that a security fund/letter of credit is not necessary to secure the required performance. The city of Nevada City may from time to time require a franchisee to change the amount of the required security fund/letter of credit to reflect changed risks to the city of Nevada City and to the public, including delinquencies in taxes or other payments to the city. The cash security fund or letter of credit must be obtained prior to the effective date of any franchise, license, transfer or franchise renewal, unless a franchise specifically provides otherwise.~~

~~H. Enforcement and Remedies.~~

~~1. Franchise Violation—Notice and Procedures. Before revoking a franchise or issuing an order to assess liquidated damages, the city of Nevada City shall follow the procedures set forth below:~~

~~a. The city of Nevada City shall notify a cable communications system operator in writing of any alleged violation ("violation notice") of a franchise or this chapter. The violation notice shall:~~

~~i. Identify the violation;~~

~~ii. Direct the cable communications system operator to cure the violation or show cause why the violation cannot or should not be cured; and~~

~~iii. State the time for the cable communications system operator's response, which shall be at minimum thirty (30) days from the date of issuance of the violation notice, except for violations that present a danger to public health, safety or welfare, in which case the time for response may be shortened.~~

~~b. Within the time period designated for response, the cable communications system operator shall respond in writing to the city of Nevada City indicating that:~~

~~i. The cable communications system operator intends to contest the violation notice and describing all facts relevant to its claim; or~~

~~4.—Exception for Bankruptcy. A franchise will terminate automatically by force of law one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding. However, the franchise may be reinstated within that one hundred twenty (120) day period, if:~~

~~a.—Such assignment, receivership or trusteeship has been vacated; or~~

~~b.—Such assignee, receiver or trustee has fully complied with the terms and conditions of this chapter and the franchise, and has executed an agreement, approved by any court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of this chapter and the franchise.~~

~~In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of a franchisee, the city of Nevada City may revoke the franchise following a public hearing before the city council by serving notice upon the franchisee and the successful bidder at the sale, in which event the franchise and all rights and privileges thereunder will be revoked and will terminate thirty (30) calendar days after serving such notice, unless:~~

~~a.—The city of Nevada City has approved the transfer of the franchise to the successful bidder; and~~

~~b.—The successful bidder has covenanted and agreed with the county to assume and be bound by the terms and conditions of the franchise and this chapter.~~

~~5.—Effect of Termination or Forfeiture. Upon termination or forfeiture of a franchise, whether by action of the city of Nevada City as provided above, or by passage of time, the franchisee must stop using the cable communications system for the purposes authorized by the franchise. The city of Nevada City may take possession of some or all of franchisee's facilities, or require the franchisee or its bonding company to remove some or all of the franchisee's facilities from the city of Nevada City and restore affected property to its same or better condition. This provision does not permit the city of Nevada City to remove facilities that are used to provide another service for which the franchisee holds a valid franchise issued by the city of Nevada City.~~

~~6.—Remedies Cumulative. Remedies provided for under this chapter, or under a franchise shall be cumulative. Recovery by the city of Nevada City of any amounts under insurance, the performance bond, the security fund or letter of credit, does not limit a franchisee's duty to indemnify the city of Nevada City; or relieve a franchisee of its franchise obligations or limit the amounts owed to the county.~~

~~7.—Liquidated Damages Required in Franchise. A franchise granted pursuant to this chapter shall require liquidated damages, in an amount to be specified in the franchise, for specified breaches of the franchise including, but not limited to, failure to commence construction, failure to meet construction plan benchmarks, failure to comply with rebuild plan benchmarks, failure to commence service, and material breach of franchise obligation(s). The franchise shall also provide that the county may withdraw liquidated damages owed from the franchisee's security deposit, after complying with the procedures set forth in subsection (N)(8) of this section. Liquidated damages shall commence on that date that performance was due and/or failed, and continue until the franchisee demonstrates to the satisfaction of the city of Nevada City that the franchisee has fully performed its obligations giving rise to the payment of liquidated damages. Any obligation to pay liquidated damages does not in any way affect the franchisee's obligation to pay franchise fees or perform other obligations in the franchise and such liquidated damages do not constitute franchise fees and are not subject to any limitations on franchise fees contained in 47 U.S.C. Section 542(b). Any obligation to pay liquidated damages are not costs of satisfying franchise requirements as provided in 47 C.F.R. Section 76.925. Franchisee agrees it will not pass the cost of any liquidated damages to subscribers through subscriber rates or itemize or otherwise identify on subscriber bills any obligation franchisee may have to pay liquidated damages.~~

~~8.—Penalties, Fines and Other Monetary Sanctions.~~

- a. ~~Penalties. In addition to any other remedies provided for in this chapter or otherwise available by law, the city of Nevada City shall have the power to impose monetary penalties in the event a cable communications system operator violates any provision of this chapter, a franchise, or any regulation lawfully adopted thereunder. The amounts of such penalties shall be specified in the franchise and shall be based on the following principles:
 - i. ~~Penalties shall exceed the financial benefits to a franchisee delaying or failing to comply with the applicable requirement;~~
 - ii. ~~Even where such benefits are not easily discernible, the penalties shall be high enough to have a significant deterrent effect on a franchisee; and~~
 - iii. ~~Penalties shall be sufficient to protect the city of Nevada City and other affected parties against loss of revenues resulting from violations.~~~~
- b. ~~Other Monetary Sanctions. A franchise shall also provide for fines, liquidated damages and other monetary sanctions, the amounts of which shall also reflect the foregoing principles.~~
- c. ~~Private Suit Against Franchisee.
 - i. ~~Any person or organization adversely affected by a violation, or by a pattern and practice of violations, shall have the right to sue a franchisee in a court of competent jurisdiction for damages and for injunctive and other relief to require enforcement of the franchise. Organizations shall be entitled to sue on behalf of themselves or their members.~~
 - ii. ~~The remedy herein provided shall be in addition to any remedies provided by law.~~
 - iii. ~~Except in emergency situations in which immediate relief is required, private litigants shall notify the city attorney not fewer than ten (10) days prior to filing suit. However, suit by the city of Nevada City shall not preempt the private litigant's right to proceed.~~~~
- d. ~~Except as otherwise provided in this chapter, any person who violates any provisions of this chapter shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense; each day of said violation shall constitute a separate offense.~~

~~I. Books and Records.~~

- 1. ~~Generally. Each cable communications system operator shall provide the city of Nevada City access to books and records related in whole or in part to the construction, operation, or repair of the cable communications system, or a group of systems of which the system is a part, so that the city of Nevada City may inspect and copy these books and records. The records include, but are not limited to, revenue records, and other records related to compliance with any provision of this chapter or a franchise. A franchisee is responsible for obtaining or maintaining the necessary possession or control of all such books and records, so that it can produce the documents upon request. Books and records must be maintained for a period of four (4) years, except that a franchise may specify a shorter period for certain categories of voluminous books and records where the information contained therein can be derived simply from other materials. The phrase "books and records" shall be read expansively to include information in whatever format stored.~~
- 2. ~~Production. Books and records requested shall be produced at the city of Nevada City by a time and at a location in the city of Nevada City designated by the city manager. However, if the requested books and records are too voluminous, or for security reasons cannot be copied and moved, then the franchisee may request that the inspection take place at some other location mutually agreed to by the city of Nevada City and the franchisee, provided that:
 - a. ~~The franchisee must make necessary arrangements for copying documents selected by the city of Nevada City after its review; and~~
 - b. ~~The franchisee must pay all travel and additional copying expenses incurred by the city of Nevada City (above those that would have been incurred had the documents been produced~~~~

~~in the city of Nevada City) in inspecting those documents or having those documents inspected by its designee.~~

JH. Reports.

~~1.—Obligation to Submit. The City manager may from time to time direct a franchisee to prepare reports and to submit those reports by a date certain, in a format prescribed by the city manager, in addition to those required by this chapter.~~

~~2.1. Quarterly ReportsStatement. Unless an exemption is granted by the city manager, within Within forty-five (45) days of the end of each calendar quarter, a franchisee shall submit a report statement to the city of Nevada City containing the following informationas required by subsection J(2) hereof:~~

~~a.— The number of service calls (calls requiring a truck roll) received during the prior quarter and the percentage of service calls compared to the subscriber base; and~~

~~b.— The total estimated hours of known outages as a percentage of total hours of operation. An outage is a loss of sound or video on any signal, or a significant deterioration of any signal affecting two (2) or more subscribers.~~

~~3-2 Annual Reports. The city City manager may require a cable communications system operator to submit a report containing the following information within ninety (90) days after the end of the operator's fiscal year:~~

~~a. A fully audited or certified revenue report from the previous calendar year for the cable communications system, and a certified statement setting forth the computation of gross revenues used to calculate the franchise fee for the preceding year and a detailed explanation of the method of computation showing:~~

~~i. Gross revenues by category (e.g., basic pay, pay-per-view, advertising, installation, equipment, late charges, miscellaneous, other), and~~

~~ii. What, if any, deductions were made from gross revenues in calculating the franchise fee (e.g., bad debt, credits and refunds), and the amount of each deduction;~~

~~b.— A report showing, for each applicable customer service standard, the franchisee's performance with respect to that standard for each quarter of the preceding year. In each case where the franchisee concludes it did not comply fully, the franchisee will describe the corrective actions it is taking to assure future compliance. In addition, the report should identify the number and nature of all the customer service complaints received and an explanation of their dispositions;~~

~~c.— An ownership report, indicating all persons who at the time of filing control or own an interest in the franchisee of ten (10) percent or more.~~

~~4.— Contemporaneous Reports. Within ten (10) days of their receipt or (in the case of documents created by the franchisee or its affiliate) filing, a franchisee shall provide the city of Nevada City:~~

~~a.— Notices of deficiency or forfeiture related to the operation of the system; and~~

~~b.— Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the franchisee or by any partnership or corporation that owns or controls the franchisee directly or indirectly.~~

KJ. Maps Required. Each franchisee shall maintain accurate maps and improvement plans which show the location, size, and a general description of all facilities installed in the public rights-of-way and any power supply sources (including voltages and connections) within the incorporated area of the city of Nevada City. Maps shall be based upon post-construction inspection to verify location. Each franchisee shall provide a map to the city of Nevada City showing the location of its facilities within the city of Nevada City, in such detail and scale as may be reasonably directed by the city engineer and update the map at least annually, and whenever the facility expands or is relocated. Copies of maps

shall be provided in hard copy and on disk, in a commercially available electronic format specified by the city engineer.

~~L. Other Records Required. Unless the city manager waives the requirement, a franchisee shall at all times maintain:~~

- ~~1. Complaint Records. Records of all complaints received, their nature and resolution. The term "complaints" refers to complaints about any aspect of the franchisee's operations;~~
- ~~2. Outage Records. Records of outages known to the franchisee, their cause and duration;~~
- ~~3. Complaint Response. Records of service calls for repair and maintenance indicating the date and time service was requested, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was solved;~~
- ~~4. Installation Records. Records of installation/reconnection and requests for service extension, indicating date of request, date of acknowledgment, and the date and time service was extended;~~
- ~~5. Customer Service. Records sufficient to show whether the franchisee has complied with each customer service standard that applies to it.~~

~~M. Exemptions. The city manager may temporarily exempt any franchisee from its obligations under subsections I through L of this section if the city manager determines that the requirement would be unduly burdensome or unnecessary, and that the city of Nevada City and subscriber interests may be adequately protected in some other manner.~~

~~N. Privacy. A franchisee shall take all reasonable steps required so that it is able to provide reports, books and records to the city of Nevada City, including by providing appropriate subscriber privacy notices. Each franchisee shall be responsible for redacting data that applicable law prevents it from providing to the city of Nevada City. Nothing in this section shall be read to require a franchisee to violate state or federal subscriber privacy laws.~~

OJ. Procedures for Paying Franchise Fees and Fees in Lieu of Franchise Fees.

1. Fees Paid Quarterly. The franchise fee paid pursuant to Section 5.28.020 of this shall be paid quarterly unless otherwise specified in a franchise. Payment for each quarter shall be made to city of Nevada City not later than forty-five (45) days after the end of each calendar quarter.
2. Quarterly Statement. Unless a franchise provides otherwise, a franchisee or other entity subject to a fee under Section 5.28.020 of this chapter shall file with the city of Nevada City within forty-five (45) days of the end of each calendar quarter a statement showing gross revenues during the preceding quarter and the number of subscribers served.
3. Acceptance of Payment Not a Release. No acceptance by the city of Nevada City of any payment shall be construed as an accord that the amount paid is in fact the correct amount; nor shall such acceptance of such payment be construed as a release of any claim the city of Nevada City may have for additional sums payable.
4. Fee Not in Lieu of Taxes. The franchise fee under Section 5.28.020 of this chapter is not a payment in lieu of any tax, fee or other assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable communications system operators or their services, but not including a tax, fee, or assessment which is unduly discriminatory against operators or subscribers).
- ~~5. Failure to Pay Franchise Fee. In the event that a fee payment is not received by the city of Nevada City on or before the due date set forth in the code or in a franchise, or the fee owed is not fully paid, the person subject to the fee will be charged interest from the due date at an interest rate equal to three (3) percent above the rate for three (3) month federal treasury bills at the most recent United States Treasury Department sale of such treasury bills occurring prior to the due date of the franchise fee payment.~~

65. Final Statement of Gross Revenues. Within ninety (90) days of the date a franchisee ceases operations under a franchise (whether because of franchise termination, transfer, bankruptcy or for any other reason), the franchisee shall file a final statement of gross revenues covering the period from the beginning of the calendar year in which the operations commenced to the date operations ceased. The statement shall contain the information and be audited or certified as required by subsection ~~(J)(3)(a)H~~ of this section.

(Ord. 2016- ; Ord. 2004-07 Exh. A § 1, 2004)

5.28.020 - Special rules applicable to state video service franchises.

A. Additional Definitions.

For the purposes of this section, in addition to those listed in the prior Section, the following terms, phrases, words, and abbreviations shall have the meaning given herein.

“DIVCA” refers to the “Digital Infrastructure and Video Competition Act” adopted by the State of California in 2006 and embodied in California Public Utilities Code section 5800 et seq., which transferred authority for issuing franchises to cable television providers from local entities to the Public Utilities Commission, while authorizing local governmental entities to be responsible for administration and implementation of certain provisions of DIVCA and establish financial support provisions for PEG channel facilities.

“Gross Revenues”, consistent with the definition in DIVCA section 5860(d), means all revenues actually received by the holder of a state franchise or its affiliates that are derived from the operation of the holder’s network to provide cable service or video service within the incorporated areas of the city of Nevada City.

“Incumbent Cable Operator” as defined in DIVCA section 5830(i) means a cable operator or OVS serving subscribers under a franchise in a particular city, county or city and county franchise area on January 1, 2007.

“Material Breach” as defined in DIVCA section 5900(j) means any substantial and repeated failure of a video service provider to comply with service quality and other standards specified in California Public Utilities Code section 5900(a).

“PEG Access” or “PEG” means the availability of a cable or State Franchise Holder’s system for public, educational, or governmental use by various agencies, institutions, organizations, groups, and individuals, including organizations, groups, or individual members of the general public, educational institutions, and the City and the County and its designated access providers, to acquire, create, and distribute programming not under a State Franchise Holder’s editorial control.

“PEG support fees” means the fees adopted pursuant to Article 2.A of Chapter II of the Nevada County General Code and this Subsection G of Section.

“PUC” means the California Public Utilities Commission.

“State Franchise Holder” means a cable operator or video service provider that has been issued a franchise by the California Public Utilities Commission to provide cable service or video service, as those terms are defined in California Public Utilities Code section 5830, within any portion of the incorporated areas of Nevada City.

B. General.

1. Purpose. This section is applicable to video service providers who have been awarded a state video franchise under DIVCA to provide cable or video services in any location(s) within the incorporated boundaries of the City. It is the purpose of this section to implement within the provisions of DIVCA and the rules of the PUC promulgated thereunder applicable to a “local

franchising entity” or a “local entity” as defined in DIVCA within the incorporated boundaries of the city of Nevada City regulations that are similar to those adopted by the County for the unincorporated areas.

2. Rights reserved.

- a. The rights reserved to the City under this section are in addition to all other rights of the City, whether reserved by this section or authorized by law, and no action, proceeding or exercise of a right shall affect any other rights which may be held by the City.
- b. Except as otherwise provided by DIVCA, a state franchise shall not include, or be a substitute for:
 - i. compliance with applicable requirements for the privilege of transacting or carrying on a business within the City, including, but not limited to, compliance with the conditions that the City may establish before facilities may be constructed or, or providing, non-video services;
 - ii. any permit or authorization required in connection with operations on or in public rights-of-way or public property, including, but not limited to, encroachment permits, street work permits, pole attachment permits, and street cut permits; and
 - iii. any permit, agreement or authorization for occupying any other property of the City or any private person to which access is not specifically granted by the state franchise.

3. Compliance with City Ordinances. Nothing contained in this section shall be construed so as to exempt a State Franchise Holder from compliance with all ordinances, rules and regulation of the City now in effect or which may be hereafter adopted which are consistent with this section or California Public Utilities Code sections 5800 et seq., or any obligations under any franchise issued by the City insofar as those obligations may continue to be enforced thereunder.

4. Compliance with DIVCA. When a video service provider holding a state franchise provides notice pursuant to section 5840(m) of DIVCA that it is commencing to provide video service to the County, a holder of a local franchise is entitled to seek a state franchise pursuant to section 5930(c) and upon issuance of a state franchise by the PUC for the franchise area, the local franchise shall terminate.

C. Franchise Fees.

1. Amount. Any State Franchise Holder operating within the incorporated areas of the City shall pay to the City a franchise fee equal to five percent (5%) of the gross revenues that may be subject to a franchise fee under CPUC section 5860.
2. Payment of Franchise Fees. The franchise fee required pursuant to this section shall be paid quarterly in a manner consistent with California CPUC section 5860. The State Franchise Holder shall deliver to the City, by check or other means, which shall be agreed to by the City, a separate payment for the state franchise fee not later than forty-five (45) days after the end of each calendar quarter. Each payment shall be accompanied by a report, detailing how the payment was calculated, and shall include such additional information on the appropriate form as designated by the City.
3. Examination of Business Records. The City may examine the business records of the holder of a state franchise in a manner consistent with CPUC section 5860(i)
4. Late payments. In the event a State Franchise Holder fails to make payments required by this section on or before the due dates specified herein, the City shall impose, pursuant to DIVCA section 5860(h), a late charge at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent (1%).

D. Customer Service.

1. Customer Service Standards. A State Franchise Holder shall comply all the Sections set forth in Section G-II.2.A.5.A of the County General Code, [including, without limitation to the extent](#)

consistent with DIVCA, all other applicable state and federal customer service and consumer protection standards pertaining to the provision of video service, including any such federal or state standards hereafter adopted. In case of a conflict, the stricter standard shall apply. All customer service and consumer protection standards under this subsection shall be interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards..

2. Penalties for Violations of Standards. The City shall enforce compliance of State Franchise Holders within the incorporated areas of the City with respect to the state and federal customer service and consumer protection standards to the same extent and in the same manner as provided by the County in the unincorporated areas as set forth in Section G-II.A.5.B.

E. Permits and Construction.

1. Except as otherwise expressly provided in this chapter, all provisions of the Nevada City Municipal Code and all City administrative rules and regulations developed to any of these provisions, as now existing or as hereafter amended, shall apply to all work performed by or on behalf of a State Franchise Holder on any City public rights-of-way, public property, or City easement.
2. Permits. Prior to commencing any work for which a permit is required by the Nevada City Municipal Code, a State Franchise Holder shall apply for and obtain a permit in accordance with the provisions of Title 15 of the Nevada City Municipal Code and shall comply with all other applicable laws and regulations, including, but not limited to, all applicable requirements of Division 13 of the California Public Resources Code, section 21000, et seq. (the California Environmental Quality Act) and Title 14, Chapter 3 of the California Code of Regulations, section 15000 et seq. (Guidelines for California Environmental Quality Act). Any work requiring City land use permits, building permits and/or grading permits shall be applied for and approved or denied in accordance with the provisions of the Nevada City Municipal Code, including the appeal process.
3. The issuance of an encroachment permit is not a franchise, and does not grant any vested rights in any location in the public rights-of-way, or in any particular manner of placement within the rights-of-way. Without limitation, a permit to place cabinets and similar appurtenances aboveground may be revoked and the permittee required to place facilities underground, in accordance with applicable law.

F. Emergency Alert System. Each State Franchise Holder shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over the State Franchise Holder's network. To the extent consistent with CPUC section 5880, each State Franchise Holder shall install and maintain an audio override on all channels for transmission of emergency messages and alerts and provide for character generated information to be superimposed on all channels for the hearing impaired.

G. Public, Educational, and Government Access Channel Capacity, Support, Interconnection, and Signal Carriage.

1. PEG Channel Capacity.

- a. There are currently four (4) PEG access channels activated in Nevada County. A State Franchise Holder shall designate a sufficient amount of capacity on its network to allow the provision of four (4) PEG channels to satisfy the requirement of Section 5870 of the California Public Utilities Code, within the time limits specified therein.
- b. A State Franchise Holder shall provide an additional PEG channel when the County satisfies the standards set forth in Section 5870(d) of the California Public Utilities Code or any entity designated by the County to manage one or more of the PEG channels.
- c. All State Franchise Holders shall comply with the provisions of DIVCA related to PEG channels. Without limiting the foregoing, the PEG channels shall be carried on the basic service tier. To the extent feasible, the PEG channels shall not be separated from other

channels carried on the basic service tier and channel numbers for the PEG channels shall be the same channel numbers used by the Incumbent Cable Operator, unless prohibited by Federal Law, and shall provide picture and sound quality, channel accessibility, and location equal to, or substantially equal to, that provided by the Incumbent Cable Operator. After the initial designation of PEG channel numbers, the channel numbers shall not be changed without the agreement of the local entity unless the change is required by Federal Law.

2, PEG Support.

- a. Amount of PEG support fee. Any State Franchise Holder shall pay to the ~~County-City or if directed by the County, to the County's designated PEG provider,~~ a PEG fee equal to one and four-tenths percent (1.4%) of gross revenues, an amount equivalent to the level of PEG funding remitted by the Incumbent Cable Operator ~~to the County's designated PEG provider during the period of January 1, 2006 to December 30, 2006~~ cumulatively to the County of Nevada and the cities of Nevada City and Grass Valley during the most recently completed franchise periods.
 - b. The PEG support fee shall be used in a manner that is consistent with state and federal law.
 - c. A State Franchise Holder shall remit the Peg-PEG support fee quarterly, within forty-five (45) days after the end of each calendar quarter. Each payment shall be accompanied by a summary detailing how the PEG support fee was calculated.
 - d. In the event that a State Franchise Holder fails to pay the PEG support fee when due, or underpays the proper amount due, the State Franchise Holder shall pay interest pursuant to DIVCA section 5860(h) at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent (1%), or the maximum rate specified by state law.
3. Interconnection. Each State Franchise Holder and each Incumbent Cable Operator shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by any means authorized under CPUC section 5870(h). Each State Franchise Holder and Incumbent Cable Operator shall provide interconnection of PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a State Franchise Holder and an Incumbent Cable Operator cannot reach a mutually acceptable interconnection agreement for PEG carriage, the County may require the Incumbent Cable Operator to allow each State Franchise holder to interconnect its network with the Incumbent Cable Operator's network at a technically feasible point on the State Franchise holder's network as identified by the State Franchise Holder. If no technically feasible point of interconnection is available, each State Franchise Holder shall make interconnection available to each PEG channel originator programming a channel in the County and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by each State Franchise Holder unless otherwise agreed to by the parties.

H. Notices.

1. Each State Franchise Holder or applicant for a state franchise shall file with the County a copy of all applications or notices that the State Franchise Holder or applicant are required to file with the California Public Utilities Commission.
2. Unless otherwise specified in this Section, all notices or other documentation that a State Franchise Holder is required to provide to the County under this Section or the California Public Utilities Code shall be provided both to the County Manager and the County staff person in charge of cable and telecommunications, or their successors or designees and, to the extent they concern operations within the incorporated areas of Nevada City, to the City Manager.

(Ord. 2016- ;Ord. 2004-07 Exh. A § 2, 2004)

5.28.030 - Open video systems - Repealed

(Ord. 2004-07 Exh. A § 3, 2004)

5.28.040 - Miscellaneous.

- A. Captions. The captions to sections throughout this chapter are intended solely to facilitate reading and reference to the sections and provisions of this chapter. Such captions shall not affect the meaning or interpretation of this chapter.
- B. Calculation of Time. Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this chapter or any franchise, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time.
- C. Severability. If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable by a valid order of any court or regulatory agency, the remainder of this chapter shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the city of Nevada City and shall thereafter be binding on the Franchisee and the city of Nevada City.
- D. Connections to Cable System; Use of Antennae.
 - 1. Subscriber Right to Attach. To the extent consistent with federal law, subscribers shall have the right to attach VCRs, receivers, and other terminal equipment to a franchisee's cable system. Subscribers also shall have the right to use their own remote control devices and converters, and other similar equipment.
 - 2. Removal of Existing Antennae. A Franchisee shall not, as a condition of providing service, require a subscriber or potential subscriber to remove any existing antenna, or disconnect an antenna except at the express direction of the subscriber or potential subscriber, or prohibit installation of a new antenna, provided that such antenna is connected with an appropriate device and complies with applicable law.
- E. Discrimination Prohibited.
 - 1. No Retaliatory Actions. A cable communications system operator shall not discriminate among persons or the city of Nevada City or take any retaliatory action against a person or the city of Nevada City because of that entity's exercise of any right it may have under federal, state, or local law; nor may the cable communications system operator require a person or the city of Nevada City to waive such rights as a condition of taking service.
 - 2. Employment and Hiring Practices. A cable communications system operator shall not refuse to employ, discharge from employment, or discriminate against any person in compensation or in terms, conditions, or privileges of employment because of race, color, creed, national origin, sex, sexual orientation, age, disability, religion, ethnic background, or marital status. A cable communications system operator shall comply with all federal, state, and local laws and regulations governing equal employment opportunities, and hiring practices, as the same may be amended from time to time.
- F. Transitional Provisions.
 - 1. Persons Operating Without a Franchise. The cable communications system operator of any facility installed as of the effective date of the ordinance codified in this chapter, for which a franchise is required under this chapter, shall have three (3) months from the effective date of the ordinance codified in this chapter to file one (1) or more applications for a franchise. Any cable communications system operator timely filing such an application under this subsection shall not be subject to a penalty for failure to have such a franchise so long as said application remains pending; provided, however, nothing herein shall relieve any cable communications system

operator of any liability for its failure to obtain any permit or other authorization required under other provisions of the city of Nevada City Municipal Code, and nothing in this chapter shall prevent the city of Nevada City from requiring removal of any facilities installed in violation of the city of Nevada City Municipal Code.

2. Persons Holding Franchises. Any person holding an existing franchise for a cable communications system may continue to operate under the existing city of Nevada City Municipal Code provisions to the conclusion of its present term (but not any renewal or extension thereof) with respect to those activities expressly authorized by the franchise; and provided further that such person shall be subject to the other provisions of this chapter to the extent permitted by law.
3. Persons with Pending Applications. Pending applications shall be subject to this chapter. A person with a pending application shall have thirty (30) days from the effective date of the ordinance codified in this chapter to submit additional information to comply with the requirements of this chapter governing applications.

([Ord. 2016-](#) ; Ord. 2004-07 Exh. A § 4, 2004)

Appendix A

Customer Service Standards

~~The Franchisee shall comply with the customer service and reporting requirements in this section, or as amended. These requirements include but are not limited to the requirements set forth in FCC regulations, including 47 C.F.R. § 76.309 and other applicable law. To the extent the provisions of this section differ from applicable FCC regulations or any applicable law, the provision or provisions that impose the highest standard or greatest legal duties or obligations upon the Franchisee shall take precedence, unless a different order of precedence is expressly set herein.~~

~~1.—Office Availability.~~

~~1.1 Each Franchisee will maintain offices at a convenient locations in Western Nevada County that will be open for walk-in traffic at least ten (10) hours per day (except legal holidays) Monday through Friday, with some evening hours, and at least five (5) hours on Saturday to allow Subscribers to pay bills, drop off equipment and to pick up equipment.~~

~~1.2 Each Franchisee will perform service calls, installations, and disconnects at least ten (10) hours per day Monday through Saturday, except legal holidays, provided that a Franchisee will respond to outages twenty-four (24) hours a day, seven (7) days a week.~~

~~2.—Telephones. All Call Response statistics shall be measured on the basis of call response statistics in all call centers that serve Subscribers. If the call centers serve Subscribers located in other communities, the Franchisee shall insure that call center representatives do not give priority or preferential treatment to Subscribers located in other communities.~~

~~A.—Definition of Call Response terms:~~

~~(i) "Answer time" is the interval between when the Franchisee receives a call and when an interactive voice response (IVR) or agent answers.~~

~~(ii) "Speed of answer" is the amount of time between when the customer is transferred into the agent queue from either an IVR or an agent and the time an agent answers.~~

~~(iii) "Calls abandoned" is the percentage of calls in any agent queue that are abandoned.~~

~~(iv) "Trunks busy" represents the percentage of time customers receive a busy signal when they call customer service during normal business hours.~~

~~2.1 Each Franchisee will establish a publicly listed local toll-free telephone number. Customer service representatives must answer the phone at least ten (10) hours per day, Monday through Saturday, except legal holidays, for the purpose of receiving requests for service,~~

inquiries, and complaints from Subscribers. After such business hours the phone will be answered so that customers can register complaints and report service problems on a twenty four (24) hour per day, seven (7) day per week basis, and so that the Franchisee can respond to service outages as required herein.

~~2.2 Standards for Call Response.~~

~~2.2.1 Answer time will not exceed thirty (30) seconds or four (4) rings. Under normal operating conditions the Franchisee shall meet this requirement at least ninety (90) percent of the time.~~

~~2.2.2 The average speed of answer shall not exceed thirty (30) seconds. Under normal operating conditions the Franchisee shall meet this requirement at least ninety (90) percent of the time.~~

~~2.2.3 The percentage of calls abandoned shall not exceed three (3) percent under normal operating conditions.~~

~~2.2.4 Subscribers shall receive a trunks busy signal less than three (3) percent of the time under normal operating conditions.~~

~~2.3 Call Response Reports.~~

~~2.3.1 Franchisee shall submit reports on call response statistics every calendar quarter, except as otherwise provided in this section.~~

~~2.3.2 If any of a Franchisee's quarterly call response statistics fail to demonstrate compliance with any applicable requirement, the Franchisee must thereafter submit monthly reports on all call response times until the Franchisee requests and the city of Nevada City approves resuming quarterly reporting.~~

~~2.3.3 Information in the reports about call response times shall be determined on the basis of the simple average of results during business hours under normal operating conditions for the entire reporting period, and any report submitted at the end of a calendar quarter shall report the total number of calls during the proceeding quarter and the average call response times during that quarter.~~

~~2.4 Other Reports.~~

~~2.4.1 A Franchisee shall submit reports on all customer service standards identified in this section during each successive calendar quarter for the term of the Franchise except as otherwise might be provided herein. If a Franchisee's reports for two (2) quarters within a calendar year fail to demonstrate that the Franchisee has complied with any customer service standard in paragraphs 2.0 through 2.3.3 of this section, the Franchisee shall thereafter submit monthly reports about performance of each such requirement until it reports three (3) consecutive months with less than five (5) percent deviation from any minimum required standard unless the Franchisee demonstrates to city of Nevada City's satisfaction that the deviation occurred when it was not operating under normal operating conditions as defined in 47 C.F.R. § 76.309 and reports on the nature and duration of such normal operating conditions.~~

~~2.4.2 Timing. A Franchisee shall submit reports within thirty (30) days after the close of the applicable reporting period. Each report shall include data from the applicable reporting period.~~

~~2.4.3 Each of the reporting requirements in this section is self-executing and the Franchisee agrees that city of Nevada City does not need to provide additional notice or an opportunity to cure in order to establish that the Franchisee has committed a breach of these requirements for the purposes of the Franchisee's obligation to pay liquidated damages as described in this section.~~

~~2.4.4 Compliance. If a monthly or quarterly report indicated that a Franchisee has failed to meet any of the minimum required standards, the Franchisee shall provide a written explanation of the deviation within ten (10) business days of the report, including steps being taken to cure~~

~~the deviation, and the time expected to implement the cure. A Franchisee must cure within thirty (30) days unless a longer period is agreed to in writing by city of Nevada City, which agreement shall not be unreasonably withheld.~~

~~3.—Scheduling Work.~~

~~3.1 All appointments for service, installation, or disconnection will be specified by date. Each Franchisee will set a specific time at which the work will be done, or offer a choice of time blocks, which will not exceed four (4) hours in length. A Franchisee may also, upon request, schedule service installation calls outside normal business hours, for the express convenience of the customer.~~

~~3.2 If at any time an installer or technician is late for an appointment and/or believes a scheduled appointment time will be missed, an attempt to contact the customer will be made before the time of appointment and the appointment rescheduled at a time convenient to the customer, if rescheduling is necessary. It is the Operator's burden to prove it met the appointment.~~

~~3.3 The Franchisee will offer and fully describe to Subscribers who have experienced a missed appointment (where the missed appointment was not the Subscriber's fault) that the Subscriber may choose between the following options:~~

~~3.3.1 Installation or service call free of charge, if the appointment was for an installation or service call for which a fee was to be charged;~~

~~3.3.2 One (1) month of the most widely subscribed to service tier free of charge for other appointments; and~~

~~3.3.3 An opportunity to elect remedies under California Civil Code 1722, if applicable.~~

~~3.4 If the Franchisee makes reasonable and no less than three (3) attempts to confirm an appointment during the scheduled appointment time or appointment window and is unsuccessful in obtaining such confirmation, the Franchisee may assume that the customer has cancelled the appointment.~~

~~4.—Service Standards.~~

~~4.1 Under normal operating conditions, requests for service, repair, and maintenance must be acknowledged by a trained customer service representative within twenty-four (24) hours, or before the end of the next business day, whichever is earlier.~~

~~4.2 A Franchisee will respond to all other inquiries (including billing inquiries) within five (5) business days of the inquiry or complaint.~~

~~4.3 Under normal operating conditions, repairs and maintenance for outages or service interruptions must be completed within twenty-four (24) hours after the outage or interruption becomes known to Franchisee where the Franchisee has adequate access to facilities to which it must have access in order to remedy the problem.~~

~~4.4 Under normal operating conditions, work to correct all other service problems must be begun by the next business day after notification of the service problem, and must be completed within five (5) business days from the date of the initial request.~~

~~4.5 When normal operating conditions do not exist, a Franchisee will complete the work in the shortest time possible.~~

~~4.6 A Franchisee will not cancel a service or installation appointment with a customer within twenty-four (24) hours of the appointment or after the close of business on the business day preceding the scheduled appointment, whichever is earlier.~~

~~4.7 Requests for additional outlets, service upgrades or other connections (e.g. DMX, VCR, A/B switch) separate from the initial installation will be performed within seven (7) business days after an order has been placed.~~

~~4.8 Under normal operating conditions, the service standards set out in Sections 4.1 through 4.7 will be met at least ninety five (95) percent of the time, measured on a quarterly basis.~~

~~4.9 The failure of the Franchisee to hire sufficient staff or to properly train its staff will not justify a Franchisee's failure to comply with this provision.~~

~~5. Disabled Services. With regard to Subscribers with disabilities, upon Subscriber request, each Franchisee will arrange for pickup and/or replacement of converters or other Franchisee equipment at the Subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer).~~

~~6. Notice to Subscribers Regarding Service. A Franchisee will provide each Subscriber at the time service is installed, and annually thereafter, clear and accurate written information:~~

~~6.1. On placing a service call, filing a complaint, or requesting an adjustment (including when a Subscriber is entitled to refunds for outages and how to obtain them);~~

~~6.2 Showing the telephone number of Western Nevada County office responsible for administering the Cable Television Franchise;~~

~~6.3 Detailing current rates and charges (which must include any senior, disabled or other discounts offered and the least expensive tier of service available), channel positions, services provided, delinquent Subscriber disconnect and reconnect procedures; information regarding the availability of parental control devices, the conditions under which they will be provided and the cost (if any) charged;~~

~~6.4 Describing conditions that must be met to qualify for discounts;~~

~~6.5 Describing any other of the Franchisee's policies in connection with its Subscribers; and~~

~~6.6 Describing any discounts, services, or specialized equipment available to Subscribers who are seniors or with disabilities; explaining how to obtain them; and explaining how to use any accessibility features.~~

~~7. Notices to City of Nevada City. Franchisee will provide city of Nevada City with copies of all notices provided to its Subscribers pursuant to this article.~~

~~8. Changes in Noticed Information. Franchisee will provide the City Manager (or designee) at least sixty (60) days, and all Subscribers at least thirty (30) days, written notice of any material changes in the information required to be provided under this article, except that if federal law establishes a shorter notice period and preempts this requirement, the federal requirement will apply.~~

~~9. Truth in Advertising. Each Franchisee will take appropriate steps to ensure that all written Franchisee promotional materials, announcements, and advertising of residential Cable service to Subscribers and the general public, where price information is listed in any manner, clearly and accurately discloses price terms. In the case of telephone orders, a Franchisee will take appropriate steps to ensure that price terms are clearly and accurately disclosed to potential customers in advance of taking the order.~~

~~9.1 Each Franchisee will maintain a file open for public inspection containing all notices provided to Subscribers under these customer service standards, as well as all promotional offers made to Subscribers. The notices and offers will be kept in the file for at least one (1) year from the date of such notice or promotional offer.~~

~~10. Interruptions of Service. A Franchisee shall inform Subscribers and city of Nevada City, three (3) days prior to any scheduled or planned interruption of service for planned maintenance or construction; provided, however, that planned maintenance that does not require more than one (1) hour interruption of service and/or that occurs between the hours of 12:00 a.m. and 6:00 a.m. will not require such notice to Subscribers, and notice to city of Nevada City must be given no less than twenty-four (24) hours before the anticipated service interruption.~~

~~11. Prorated Billing. A Franchisee's first billing statement after a new installation or service change will be prorated as appropriate and will reflect any security deposit.~~

~~12. Billing Statement.~~

~~12.1 A Franchisee's billing statement must be clear, concise, and understandable; must itemize each category of service and equipment provided to the Subscriber; and must state clearly the charges therefor.~~

~~12.2 A Franchisee's billing statement must show a specific payment due date not earlier than the later of:~~

~~12.2.1 Fifteen (15) days after the date the statement is mailed; or~~

~~12.2.2 The tenth (10th) day of the service period for which the bill is rendered.~~

~~12.3 A late fee or administrative fee (collectively referred to below as a "late fee") may not be imposed for payments earlier than twenty-seven (27) days after the due date specified in the bill.~~

~~12.4 A late fee may not be imposed unless the Subscriber is provided written notice at least ten (10) days prior to the date the fee is imposed that a fee will be imposed, the date the fee will be imposed and the amount of the fee that will be imposed if the delinquency is not paid. A late fee may not be imposed unless the outstanding balance exceeds \$10.00 and may not exceed \$5.00.~~

~~12.5 Subscribers will not be charged a late fee or otherwise penalized for any failure by a Franchisee, including failure to timely or correctly bill the Subscriber, or failure to properly credit the Subscriber for a payment timely made. Payments will be considered timely if postmarked on the due date.~~

~~12.6 A Franchisee's bill must permit a Subscriber to remit payment by mail or in person at the Franchisee's local office.~~

~~13. Credit for Service Impairment.~~

~~13.1 A Subscriber's account will be credited a prorated share of the monthly charge for the service upon Subscriber request if a Subscriber is without service or if service is substantially impaired for any reason for a period exceeding four (4) hours during any twenty-four (24) hour period; or automatically if the loss of service or impairment is for twenty-four (24) hours or longer.~~

~~13.2 A Franchisee need not credit Subscriber where it establishes that a Subscriber will obtain a refund for a loss of service or impairment caused by the Subscriber or by Subscriber-owned equipment (not including, for purposes of this section, in-home wiring installed by the Franchisee).~~

~~14. Biting Complaints. Franchisee will respond to all written billing complaints from Subscribers within thirty (30) days.~~

~~15. Billing Refunds. Refunds to Subscribers will be issued no later than:~~

~~15.1 The earlier of the Subscriber's next billing cycle following resolution of the refund request, or thirty (30) days; or~~

~~15.2 The date of return of all equipment to Franchisee, if Cable service has been terminated.~~

~~16. Credits for Cable Service. Credits for Cable service will be issued no later than the Subscriber's next billing cycle after the determination that the credit is warranted.~~

~~17. Disconnection/Downgrades.~~

~~17.1 A Subscriber may terminate service at any time.~~

~~17.2 A Franchisee will promptly disconnect from the Franchisee's Cable System or downgrade any Subscriber who so requests. No charges for service may be made after the Subscriber requests disconnection. No period of notice before voluntary termination or downgrade of Cable service may be required of Subscribers by any Franchisee. There will be no~~

~~charge for disconnection, except for the collection fee authorized by state law, and any downgrade charges will conform to applicable law.~~

~~18. Security Deposit. Any security deposit and/or other funds due a Subscriber that disconnects or downgrades service will be returned to the Subscriber within thirty (30) days or in the next billing cycle, whichever is later, from the date disconnection or downgrade was requested except in cases where the Subscriber does not permit the Franchisee to recover its equipment, in which case the amounts owed will be paid to subscribers within thirty (30) days of the date the equipment was recovered, or in the next billing cycle, whichever is later.~~

~~19. Disconnection Due to Nonpayment.~~

~~19.1 A Franchisee may not disconnect a Subscriber's Cable service for non-payment unless:~~

~~19.1.1 The Subscriber is delinquent in payment for Cable service;~~

~~19.1.2 A separate, written notice of impending disconnection, postage prepaid, has been sent to the Subscriber at least twenty (20) days before the date on which service may be disconnected, at the premises where the Subscriber requests billing, which notice must identify the names and address of the Subscriber whose account is delinquent, state the date by which disconnection may occur if payment is not made, and the amount the Subscriber must pay to avoid disconnection, and a telephone number of a representative of the Franchisee who can provide additional information concerning and handle complaints or initiate an investigation concerning the services and charges in question;~~

~~19.1.3 The Subscriber fails to pay the amounts owed to avoid disconnection by the date of disconnection; and~~

~~19.1.4 No pending inquiry exists regarding the bill to which Franchisee has not responded in writing.~~

~~19.2 If the Subscriber pays all amounts due, including late charges, before the date scheduled for disconnection, the Franchisee will not disconnect service. Service may only be terminated on days in which the customer can reach a representative of the Franchisee either in person or by telephone.~~

~~19.3 After disconnection (except as noted below), upon payment by the Subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, the Franchisee will promptly reinstate service.~~

~~20. Immediate Disconnection. A Franchisee may immediately disconnect a Subscriber if:~~

~~20.1 The Subscriber is damaging, destroying, or unlawfully tampering with or has damaged or destroyed or unlawfully tampered with the Franchisee's Cable System;~~

~~20.2 The subscriber is not authorized to receive a service, and is facilitating, aiding or abetting the unauthorized receipt of service by others; or~~

~~20.3 Subscriber installed or attached equipment is resulting in signal leakage that is in violation of FCC rules.~~

~~20.4 After disconnection, the Franchisee will restore service after the Subscriber provides adequate assurance that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including any reconnect fees and all amounts owed the Franchisee for damage to its Cable System or equipment. Provided that, no reconnection fee may be imposed on a Subscriber disconnected pursuant to this article if the leakage was the result of the Franchisee's acts or omissions; or in any case unless the Franchisee notifies the Subscriber of the leakage at least three (3) business days in advance of disconnection, and the Subscriber has failed to correct the leakage within that time.~~

~~21. Franchisee's Property. Except as applicable law may otherwise provide, a Franchisee may remove its property from a Subscriber's premises within thirty (30) days of the termination of service. If a Franchisee fails to remove its property in that period, the property will be deemed~~

~~abandoned unless the Franchisee has been denied access to the Subscriber's premises, or the Franchisee has a continuing right to occupy the premises under applicable law.~~

- ~~22. Deposits. A Franchisee may require a reasonable, non-discriminatory deposit on equipment provided to Subscribers. Deposits will be placed in an interest-bearing account and the Franchisee will return the deposit plus interest earned to the date the deposit is returned to the Subscriber, less any amount the Franchisee can demonstrate should be deducted for damage to such equipment.~~
- ~~23. Parental Control Option. Without limiting a Franchisee's obligations under federal law, a Franchisee must provide parental control devices at no charge to all Subscribers who request them that enable the Subscriber to block the video and audio portion of any channel or channels of programming.~~
- ~~24. Penalties. Pursuant to California Government Code § 63088.2, and any successor statute or regulation, penalties will be assessed against a Franchisee for any breach of Sections 1-23 of these customers service standards.~~
- ~~25. Notwithstanding the requirements of this article the City Manager is authorized to relieve a Franchisee of its obligations under this article if:~~

~~25.1 Franchisee shows that there is an alternative standard that is substantially similar to that established by this article;~~

~~25.2 In light of the number of customers served by a Cable System Operator, the requirements of this article are, in the City Manager's sole discretion, unduly burdensome and there is an alternative way to serve the same interest.~~

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

January 11, 2017

TITLE: Review of “ParkEasy Nevada City” Parking Expansion Strategy

RECOMMENDATION: Review and provide direction to staff to convene a community workshop for citizen review of the “ParkEasy Nevada City” parking expansion strategy and refer proposal to the Planning Commission for review.

CONTACT: Bryan K. McAlister, City Engineer

BACKGROUND / DISCUSSION: The City currently has three municipal parking lots and metered on-street parking throughout the Historic District. However, parking remains limited and presents daily challenges for visitors and residents alike, particularly during larger community events.

To address these challenges, the City Council requested City staff develop parking expansion options as part of their six-month strategic objectives (the City’s NCFoward Economic Plan also includes a plan to evaluate options to expand parking to enhance the community’s economic vitality). City staff approached this challenge creatively in consultation with Council-designee Vice Mayor Strawser and invested considerable time evaluating options for expanding parking options for residents and visitors. Identifying affordable, easy to implement solutions has been a key focus of this effort.

The resulting strategy has been tentatively coined “ParkEasy Nevada City” because it will provide a remarkable number of additional parking spaces if implemented. The strategy includes an added 183 parking spaces in 12 different locations within and nearby the Historic District, 200+ shuttle options and 20 new bicycle parking spots. The attached exhibits provide a comprehensive summary of proposed parking expansion options.

A significant number of the solutions are affordable and can be implemented within 12 months. In fact, it is conceivable that all proposed improvements can be completed within four years. City staff has also identified locations for four electric vehicle charging stations and is actively evaluating opportunities for grant funding to accelerate investment in vehicle charging infrastructure. It is recommended that the proposed public outreach efforts described below include seeking feedback on the community’s interest in improving wayfinding (directional signage) and enhancing use of technology.

Staff is recommending a two-step public outreach strategy to receive citizen feedback on parking expansion options:

1. A community workshop in late January/early February.
2. Review by the Planning Commission at their February 16, 2017 meeting.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Staff has identified funding sources/strategies for each of the proposed parking expansion options. Sources of possible funding include the City's Parking In-Lieu Fee Fund, Measure S, and enhancement of parking meter revenue.

ATTACHMENTS:

- ✓ Overall Parking Exhibit
- ✓ Attachment A-1
- ✓ Attachment A-2
- ✓ Attachment A-3
- ✓ Attachment A-4
- ✓ Attachment A-5

OVERALL EXHIBIT

PROPOSED PARKING (Upon Completion)

SHORT TERM (2017)	
B	9
C	2
F	4
H	14
J	4
SUBTOTAL	33

NEAR TERM (2017-2018)	
A	23
D	12
G	15
L	4
SUBTOTAL	54

LONG TERM (2019-2020)	
E	48
I	8
K	40
SUBTOTAL	96

TOTAL 183

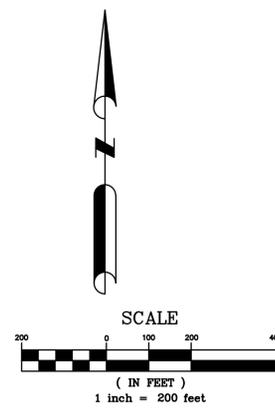


ADDED PARKING	
PARKING AREA	# STALLS PROPOSED
A	23 *M
B	9 *M
C	2 *M
D	12
E	48
F	4
G	15
H	14
I	8
J	4
K	40
L	4
TOTAL	183

*M - METERS (55 ADDED)

SHUTTLE OPTION	
COUNTY LOT	200+ STALLS

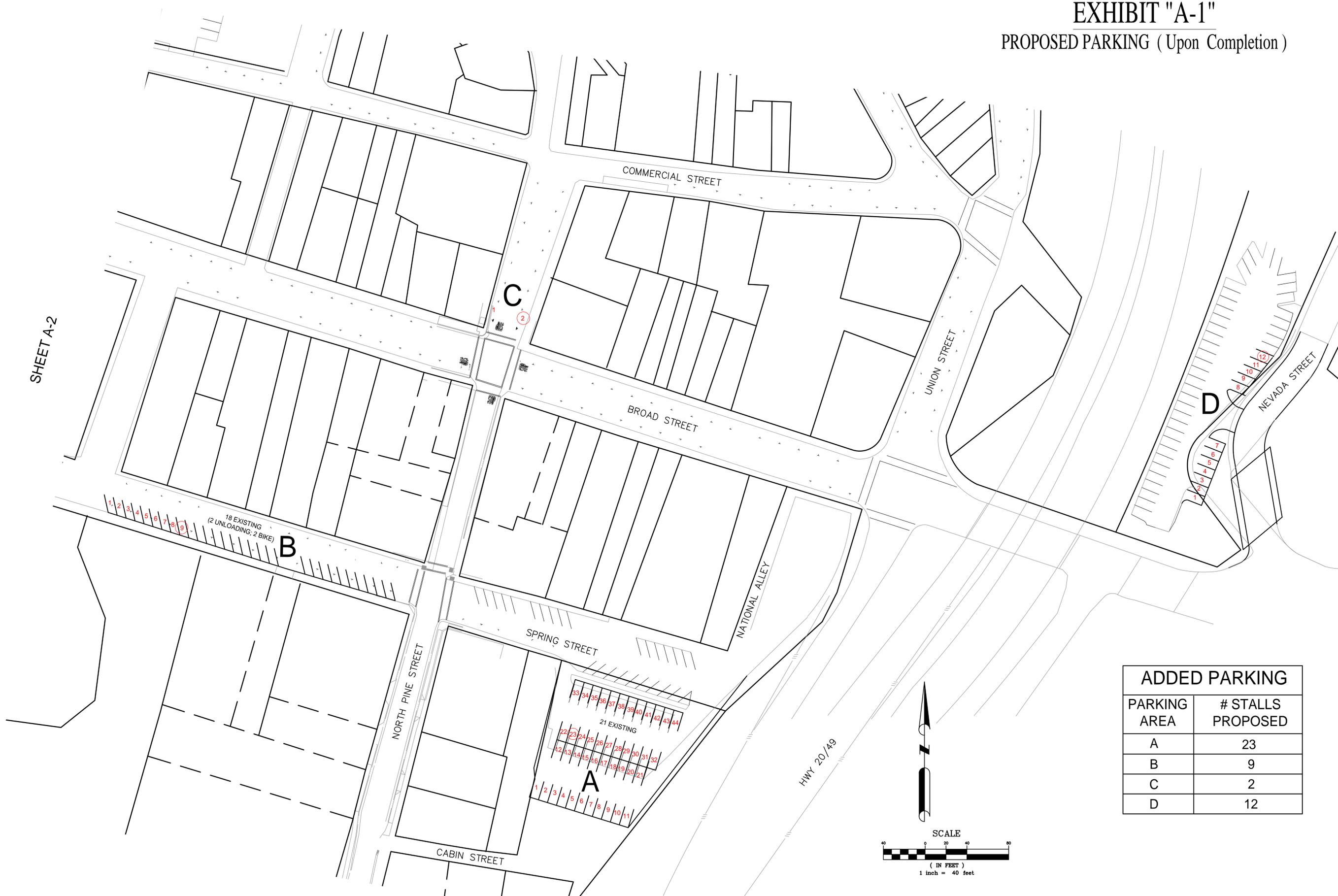
ALTERNATIVES	
BICYCLE PARKING	20
ELECTRIC VEHICLE CHARGING	4



CITY OF NEVADA CITY
 317 BROAD STREET
 NEVADA CITY, CALIFORNIA 95959
 (530) 265-2496

EXHIBIT "A-1"

PROPOSED PARKING (Upon Completion)



SHEET A-2

ADDED PARKING	
PARKING AREA	# STALLS PROPOSED
A	23
B	9
C	2
D	12

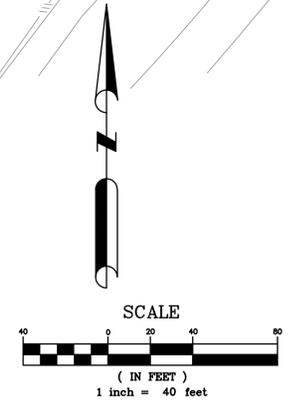
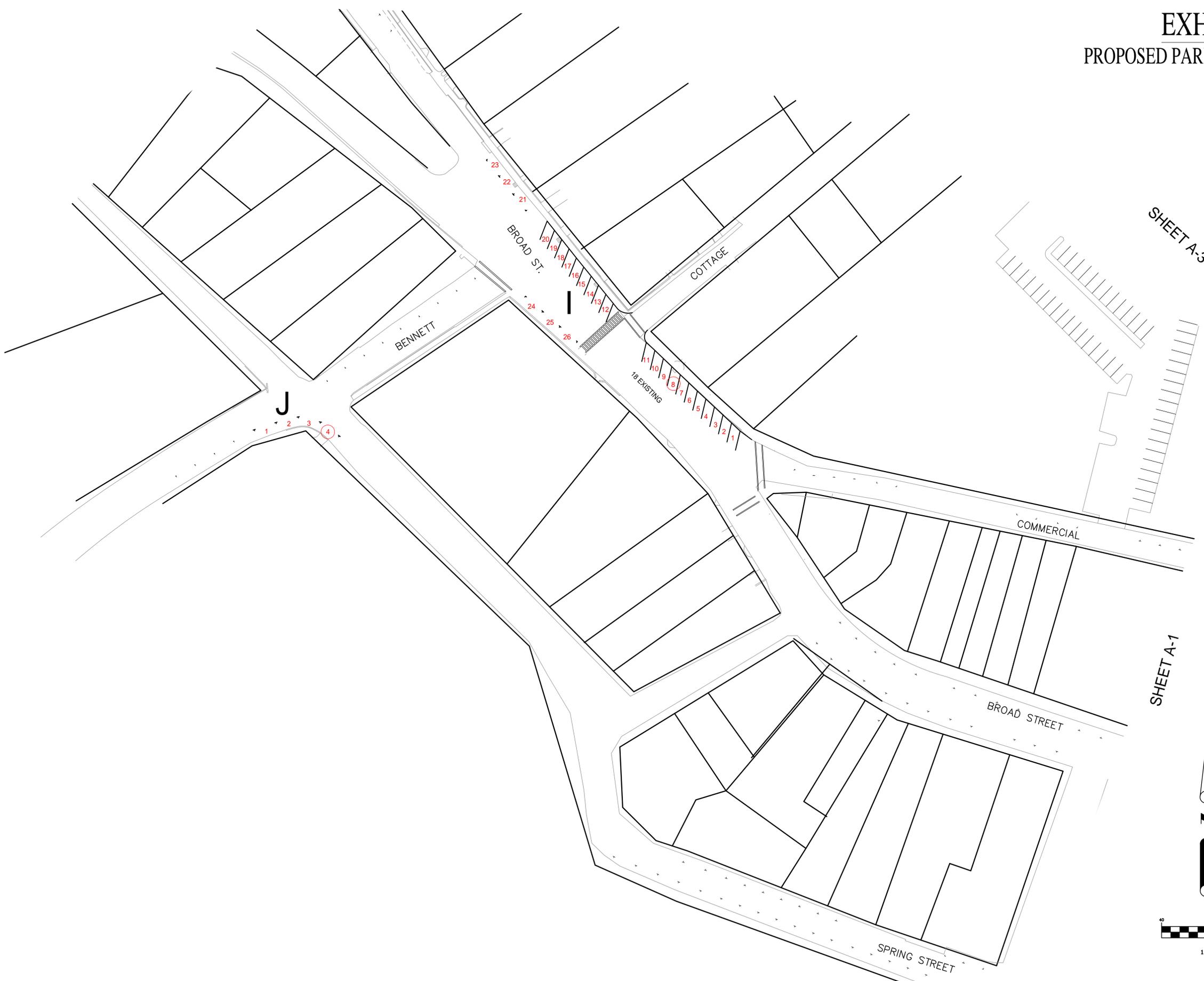


EXHIBIT "A-2"
PROPOSED PARKING (Upon Completion)



SHEET A-3

SHEET A-1

ADDED PARKING	
PARKING AREA	# STALLS PROPOSED
I	8
J	4

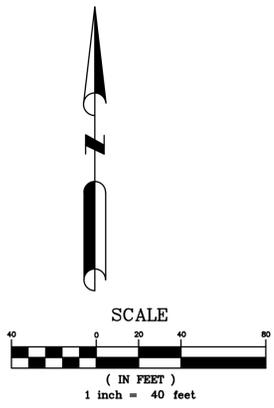
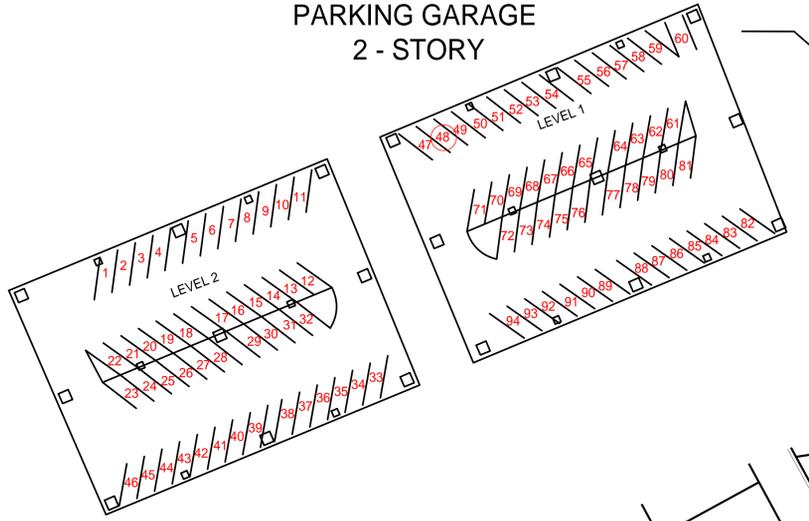


EXHIBIT "A-3"

PROPOSED PARKING (Upon Completion)

PROPOSED
PARKING GARAGE
2 - STORY



SHEET A-5



ADDED PARKING	
PARKING AREA	# STALLS PROPOSED
E	48
F	4

SHEET A-2

SHEET A-4

SHEET A-1

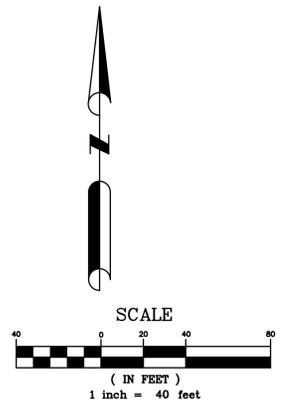
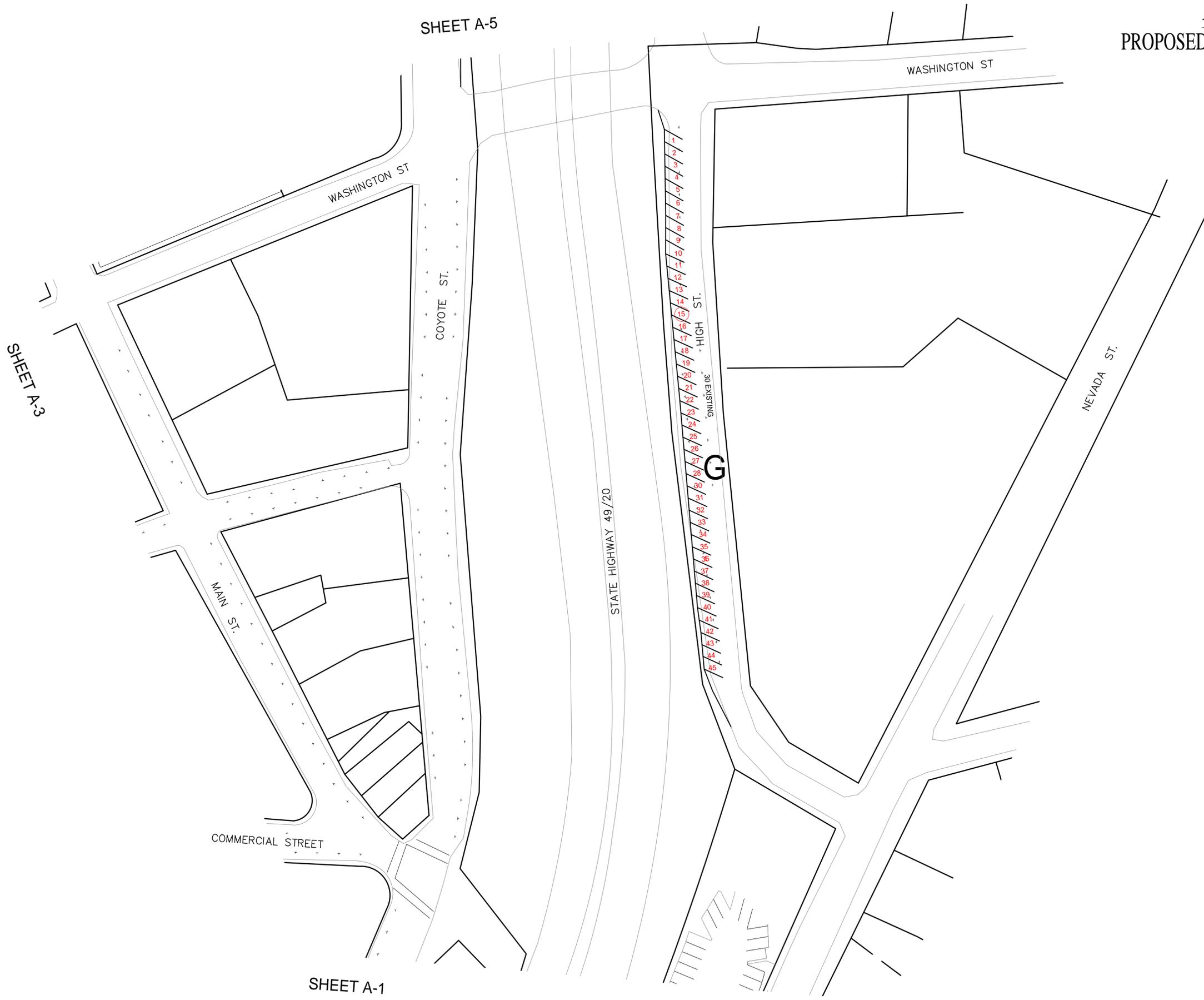


EXHIBIT "A-4"

PROPOSED PARKING (Upon Completion)



ADDED PARKING	
PARKING AREA	# STALLS PROPOSED
G	15

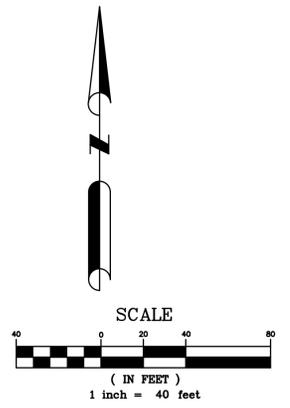
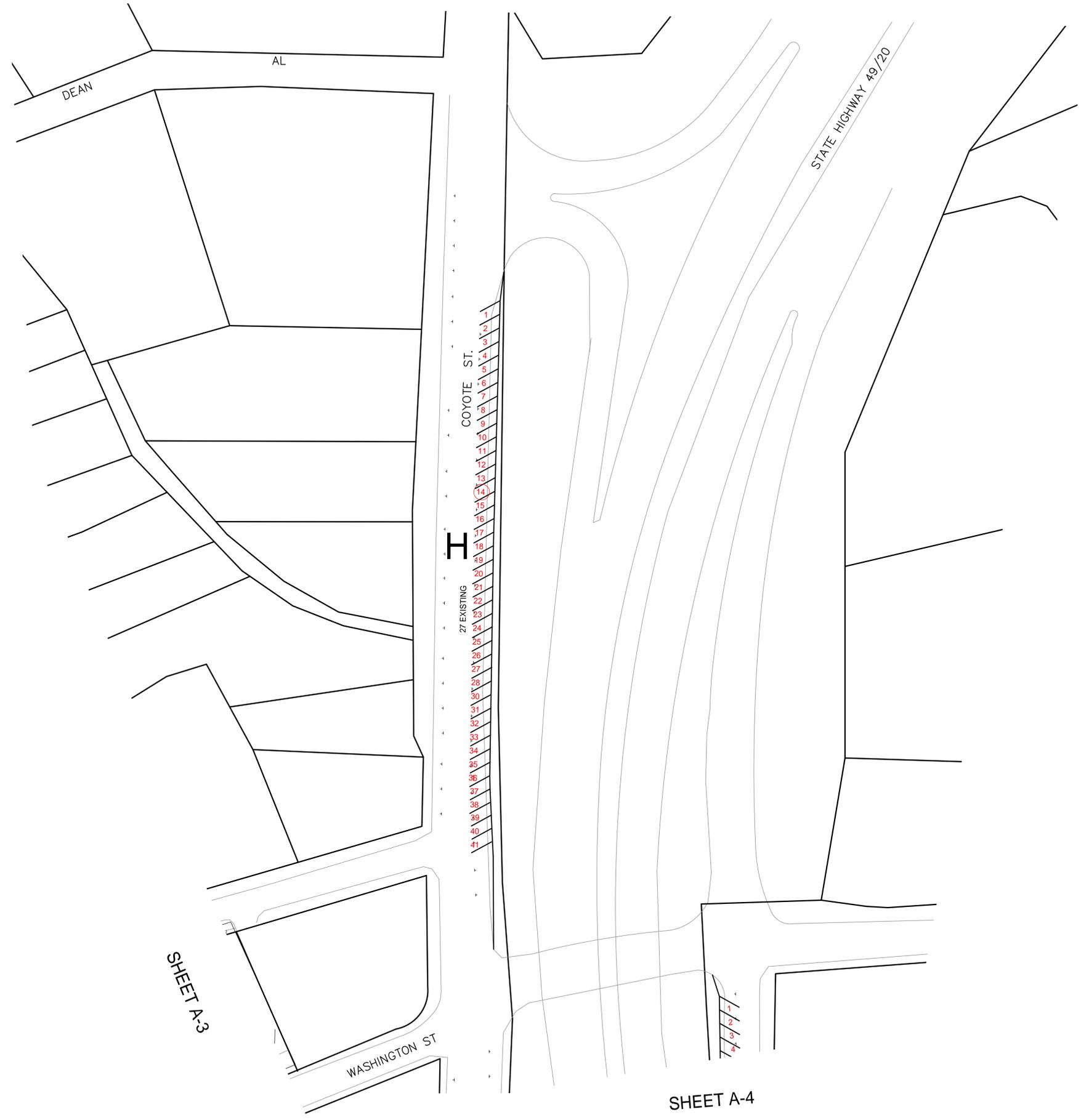
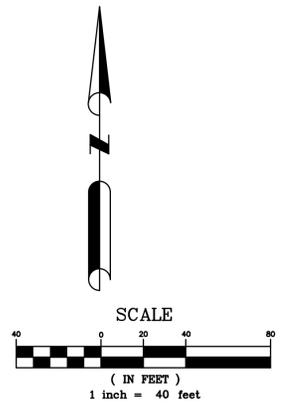


EXHIBIT "A-5"
PROPOSED PARKING (Upon Completion)



ADDED PARKING	
PARKING AREA	# STALLS PROPOSED
H	14



SHEET A-3

SHEET A-4

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

JANUARY 11, 2017

TITLE: Ordinance: Regulation of Mobile Food Vending within Nevada City

RECOMMENDATION:

1. Approve An Ordinance Adding Chapter 10.44 to the Nevada City Municipal Code Regulating Mobile Food Vending on Public and Private Property

CONTACT: Amy Wolfson, City Planner

BACKGROUND: In response to public testimony received at the March 30, 2016 City Council meeting, the Council directed staff to draft an ordinance pertaining to the regulation of Mobile Food Vending within City limits and referred the matter to the City's Planning Commission for review. On April 21, 2016, the Planning Commission reviewed sample ordinances from other jurisdictions and recommended provisions to incorporate into a local ordinance. Staff presented a draft ordinance to the Planning Commission at their regular meeting on December 15, 2016.

DISCUSSION: California Vehicle Code §22455 prohibits local governments from banning mobile food vending vehicles from local streets, though cities may regulate time, place and manner of vending from vehicles upon any street for reasons of public safety. As such, several of the provisions originally recommended by the Planning Commission cannot be considered for the proposed ordinance, such as limiting competition with brick and mortar businesses. However, vending on private property can be regulated somewhat more robustly if desired by a local jurisdiction.

The subsequent draft ordinance reviewed and approved by the Planning Commission in December 2016 is therefore broken up into two sections: **10.44.030** - Mobile Food Vendors in the Public Right-of-Way, and **10.44.040** - Mobile Food Vendors on Private Property. Below is a discussion on some of the provisions incorporated in both of these sections.

10.44.030. Mobile Food Vendors in the Public Right-of-Way

As drafted, this section of the ordinance allows mobile vending on any public street throughout the City provided the vendor can meet public health and safety standards including operating within 200-feet of a toilet and hand washing station, parking within a specified distance of driveways and intersections, and generally complying with public parking provisions. The ordinance also restricts day time operation within 300-feet of a school during school operating hours.

Staff has also added subsection E.vi which restricts vending operation during the peak traffic hours of 5:00p.m. and 7:00p.m. on those streets with substandard street widths. These peak hours are based on Caltrans document "Explanation of Traffic Counts (Back & Ahead Leg Diagrams) (PDF):"

http://www.dot.ca.gov/trafficops/census/docs/Back_and_Ahead_Leg_Traffic_Count_Diagram.pdf.

Outside of those hours, vendors would be allowed to operate even on roads with substandard street widths that have at least a minimum street width of 38-feet for a two-way street and at least a width of 19-feet for a one-way street. Street width provisions are based on standard 11-foot drive aisles and standard 10-foot parallel parking space widths. Staff has

attached an exhibit that roughly estimates various street widths throughout the City. However, it should be noted that this exhibit is not intended to be used as an accurate depiction of field measurements. The exhibit is based on a GIS measuring tool overlaying an aerial photograph and is merely intended to provide a context for typical street width dimensions in Nevada City. Vending operators would be responsible for determining the street widths in the field at the location where they are operating.

10.44.040. Mobile Food Vendors on Private Property.

Provisions of the draft ordinance regulating vending operations on private property require that operators comply with many of the same health and safety standards applicable to vending in the public right-of-way, including proximity to toilet and hand washing stations, and distance restrictions to the driveway. Additional provisions are related to ensuring that the property owner dictates the time and location that a vendor may operate and that adequate parking remain available to employees and customers.

PLANNING COMMISSION RECOMMENDATION

Staff presented the draft ordinance at the Planning Commission’s regular meeting on December 15, 2016. A review of that discussion can be viewed on the City’s website and meeting video link at: http://nevco.granicus.com/MediaPlayer.php?clip_id=6619

The discussion pertinent to this item lasts approximately 13 minutes and begins at minute 1:07:04 and ends at 1:20:34. The Planning Commission voted 4-0 (Damskey absent) to recommend the draft ordinance to City Council for adoption as presented.

ENVIRONMENTAL CONSIDERATIONS: Staff recommends that the City Council find that the adoption of the Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Title 14, Chapter 3, California Code of Regulations (CEQA Guidelines), Section 15061(b)(3). The proposed Ordinance will regulate the time, manner and place for the operation of mobile food vending based on health and safety considerations and there is no possibility that the adoption of the Ordinance will have a significant effect on the environment.

FINANCIAL CONSIDERATIONS: Not applicable.

ATTACHMENTS:

- Exhibit A – Ordinance No. 2017-XX, Adding Chapter 10.44, Mobile Food Vending
- Exhibit B – Nevada City Road Widths Exhibit

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF NEVADA CITY, CALIFORNIA,
ADDING CHAPTER 10.44 ENTITLED “MOBILE FOOD VENDING” TO
THE NEVADA CITY MUNICIPAL CODE REGULATING MOBILE
FOOD VENDING ON PUBLIC AND PRIVATE PROPERTY**

WHEREAS, the City Council has received input from residents and businesses seeking appropriate City regulations in regulating mobile food vending within public rights-of-way and on private property to promote the public health, safety and welfare; and

WHEREAS, pursuant to California Vehicle Code Section 22455, the City desires to enact health and safety regulations governing the operation of mobile food vending vehicles within the City of Nevada City; and

WHEREAS, the City recognizes that mobile food vending vehicles benefit the City by providing services to those who live and work in areas where food may not be readily available, and they offer an entrepreneurial opportunity for the people in the City to open a small business and provide unique foods that may not be available at brick-and-mortar restaurants; and

WHEREAS, the City needs to protect the public by ensuring that mobile food vending vehicles are operated in a safe manner and do not create nuisances in City neighborhoods. The City desires to enact reasonable regulation that ensure the mobile food vending vehicles are operated according with health laws of the state; do not block or hinder vehicle or pedestrian traffic on the streets and sidewalks; do not cause public safety problems by contributing to crowding nears school and entertainment establishments; and do not disturb the quiet use and enjoyment of the residential neighborhoods; and

WHEREAS, at its December 15, 2016 regular meeting, the Planning Commission of the City of Nevada City reviewed the Ordinance and having found it consistent with the City’s General Plan and other zoning regulations, recommended its approval to the City Council; and

WHEREAS, the City Council finds the Ordinance consistent with the actions, goals, objectives, policies, and programs of the City of Nevada City General Plan in that incorporation of provisions for allowing mobile food vending diversifies the economy of the City by attracting additional types of economic development while maintaining reasonable traffic levels on local streets to protect residents from safety hazards.; and

WHEREAS, the City Council finds that the ordinance would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City, because it is an amendment to the Nevada City Municipal Code that establishes regulations for mobile food vending to ensure they are operating according to health and safety standards adopted by the state and that their operation does not pose a safety risks to motorists or pedestrians; and

WHEREAS, the City Council hereby finds that it can be seen with certainty

that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment because the City anticipates only a limited few number of mobile food vendors will operate within the City at any one given time, and so their impact on the environment will be collectively minimal. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b) (3) of Title 14 of the California Code of Regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1.

A. The California Vehicle Code Section 22455 allows municipalities to regulate mobile food vending in order to protect public safety and Article XI, Section 7 of the California Constitution extends to municipalities the police power authority to regulate in furtherance of public health and welfare.

B. Mobile food vending and catering trucks create the potential for safety hazards, such as blocking sight distances at intersections and crosswalks, encouraging pedestrians to cross streets mid-block to reach a vending vehicle, and causing additional conflicts between drivers and pedestrians.

C. The act of looking for prospective buyers while operating a mobile food-vending vehicle may make the operator less attentive to pedestrian and vehicular traffic. When done on public roadways, this poses obvious traffic and safety risks to the public, which the City seeks to prevent.

D. Mobile food vendors who fail to park their vehicles correctly during a transaction attract prospective buyers onto public roadways, creating a further traffic and public safety hazard.

E. The City has an important and substantial public interest in providing regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

SECTION 2. Chapter 10.44 entitled “Mobile Food Vending,” of Title 10 (Vehicles and Traffic) of the Nevada City Municipal Code is hereby to read as follows:

10.44 Mobile Food Vending

10.44.010. Purpose.

This Chapter 10.44 is adopted pursuant to the authority granted to the City of Nevada City by Section 22455 of the California Vehicle Code, which permits local authorities to regulate the type of vending and the time, place and manner of

vending from vehicles upon the street in order to promote public safety.

The City finds the regulations adopting herein are necessary to protect the public by ensuring that mobile food vending vehicles are operated in a safe manner and do not create nuisances in City neighborhoods. The City also finds that these regulations are necessary to ensure the mobile food vending vehicles are operated according with health laws of the state; do not block or hinder vehicle or pedestrian traffic on the streets and sidewalks; do not cause public safety problems by contributing to crowding nears school and entertainment establishments; and do not disturb the quiet use and enjoyment of the residential neighborhoods.

10.44.020 Definitions.

For purposes of this Chapter, the following words or phrases shall have the following meanings:

- A. Food or Food Products. Any type of edible substance or beverage.
- B. Mobile Food Vendor. A person that operates or assists in the operation of a vending vehicle.
- C. Vend or Vending. To sell, offer for sale, display, barter, exchange, or otherwise give food or food products from a vending vehicle.
- D. Vendor. A person who vends, including an employee or agent of a vendor.
- E. Vending Vehicle. Any self-propelled, motorized device or vehicle by which any person or property may be propelled or moved upon a highway, from which food or food products are sold, offered for sale, displayed, bartered, exchanged or otherwise given, excepting a device moved exclusively by human power, or which may be drawn or towed by a self-propelled, motorized vehicle. Vending vehicle does not include a vehicle that only delivers food or beverage products ordered by home delivery customers.

10.44.030. Mobile Food Vendors In The Public Right-of-Way.

A mobile food vendor may locate its vehicle in the public right-of-way as long as the mobile food vendor adheres to the following time, place, and manner restrictions:

The vending vehicle is in full compliance with all parking and Vehicle Code provisions, which apply to the location at which it is parked.

- A. Mobile food vendors located in the Historical District shall display at least one “no smoking” sign.
- B. The mobile food vendor has a valid permit, certificate or other required

approval from the Nevada County Department of Environmental Health including visible display of food grade cards (if issued); the mobile food vendor has available for review the most recent and current Nevada County Vehicle Inspection Report; and, the mobile food vendor operates in compliance with the California Retail Food Code, including California Health and Safety Code section 114315 (a) which mandates that a “food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business form more than a one-hour-period.”

- C. The mobile food vendor has a valid business license from the City. As part of its application for a business license, the mobile food vendor shall furnish to the City evidence of insurance, as deemed acceptable in the reasonable discretion of the City, against liability for death or injury to any person as a result of ownership, operation, or use of its vending vehicles.
- D. All vending vehicles shall be inspected by the Nevada City Fire Department prior to issuance or renewal of a business license involving use of the vending vehicle. All vending trucks shall comply with National Fire Protection Association (NFPA) 96. Business license must be renewed at City Hall; applications are subject to Nevada City Fire Department inspection per NFPA 96.
- E. No Mobile Food Vendor may operate a vehicle:
 - i. Within 25 feet from the outer edge of any driveway or vehicular entrance to public or private property. The 25 feet is to be measured from the front or back of the mobile vending vehicle (whichever is closer to the driveway or vehicular entrance) to the outer edge of the driveway or vehicular entrance.
 - ii. Within 25 feet of any street intersection as defined by Vehicle Code Section 365 (and as amended).
 - iii. Within 25 feet of a bus stop during the hours when buses are operating.
 - iv. Between the hours of 7:00 a.m. and 5:00 p.m. of any school day session, while located within 300 feet of the nearest property line of any property in which a school grades K to 12 building is located.
 - v. Within 25 feet of a marked crosswalk or a stop bar.

- vi. Between peak traffic hours of 5:00p.m. and 7:00p.m on a two-way street that does not have a minimum street width of forty-two (42) feet (measured from curb face to curb face), and on a one-way street that does not have a minimum width of 21-feet. At no time shall a food vendor operate on a two-way street that does not have a minimum width of thirty-eight (38) feet, or on a one-way street that does not have a minimum width of nineteen (19) feet. In the event that a curb face does not exist, the City Engineer shall determine the street width.
 - vii. Within 400 feet of another mobile food vendor.
- F. The mobile food vendor shall not encroach onto a public sidewalk or parkway with any part of its vending vehicle or any other equipment or furniture related to the operation of its business.
 - G. The vending vehicle or patrons do not obstruct pedestrian or vehicular traffic. Vendors must provide a minimum pedestrian clearance of four feet on sidewalks at all times.
 - H. Vending is prohibited on the exposed street and/or vehicular traffic side of the vending vehicle.
 - I. The mobile food vendor shall maintain clearly designated noncombustible waste receptacles on board the vending vehicle which will reasonably accommodate the immediate waste needs, of the mobile food vendor's patrons generated by the mobile food vendor's sales. All mobile food vendors shall maintain the area surrounding their vehicles free of trash and other debris and shall not dispose of trash from their operation in city owned trash receptacles.
 - J. No hookups to electricity, water, or sewer.
 - K. The mobile food vendor shall not discharge any liquid (e.g. grease, oil, water, etc.) onto or into City streets, storm drains, catch basins, sewer facilities.
 - L. The mobile food vendor shall be subject to the noise provisions set forth in Chapter 8.20 of the Nevada City Municipal Code.
 - M. All food products sold or provided from the vending vehicle shall comply with all applicable food labeling requirements established by the State of California and the mobile food vendor must obtain all required permits, including without limitation, health permits, to sell or provide such items.
 - N. Mobile food vendors operating on public rights-of-way may not use portable or a-frame signs.

10.44.040. Mobile Food Vendors on Private Property.

- A. Mobile food vendors may not operate on private property within residential zones. However, they are permitted to operate on public rights-of-way as authorized by California Vehicle Code section 22455 and as authorized by section 10.44.030 of this Chapter.
- B. All mobile food vendors operating on private property must have written consent of the property owner to operate on that site.
- C. If mobile food vendors are operating on private property where a business is also located, their operation shall not obstruct the use of the parking lot by employees of the business.
- D. Mobile food vendors operating within parking lots shall obtain written permission of the property owner that designates the hours the vendor may operate within the parking lot and the appropriate location for the vending operation. No property owner shall allow a mobile food vendor to operate within his or her parking lot if doing so shall prevent the owner from meeting City parking standards for the business.
- E. All mobile food vehicles shall be located on a properly paved or graveled surface. No mobile food vendor shall be located within a landscaped or dirt area.
- F. Vending vehicles, including those operated at events on public school property, shall maintain a valid Nevada County Department of Environmental Health permit and a valid City business license.
- G. The mobile food vendor shall maintain clearly designated noncombustible waste receptacles which will reasonably accommodate the immediate waste needs, of the mobile food vendor's patrons are generated by the mobile food vendor's sales. All mobile food vendors shall maintain the area surrounding their vehicles free of trash and other debris and shall not dispose of trash from their operation in city owned trash receptacles.
- H. If a mobile food vendor operates and/or parks for more than one hour at the location, the mobile food vendor must have written documentation that their employees and customers have permission to use a readily available toilet and hand washing facility that is located within two hundred feet travel distance from the location where the vending vehicle is engaged in operations and/or is parked. Mobile food vendors operating on private property shall be situated on locations within the private property that ensure

safe pedestrian and vehicular ingress and egress to and from the property where they are located, including, but not limited to, compliance with the following requirements:

- i. Mobile food vendors may not operate within 25 feet from the outer edge of any driveway or vehicular entrance to the public or private property.

10.44.050. Compliance with State and Local Laws.

Mobile food vendors shall comply with all applicable state and local laws.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 5. This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of Nevada City shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED, AND ADOPTED this ___ day of ____ 2017.

Evans Phelps, Mayor

ATTEST:

APPROVED AS TO FORM:

Niel Locke, City Clerk
(seal)

Ryan Jones, Consulting City Attorney

I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of Nevada City a regular meeting held on the XXth day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Niel Locke, City Clerk
(seal)

Sample of Estimated Street Widths in Nevada City



Downtown Area



7 Hills Area

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

January 11, 2017

TITLE: An Ordinance of the City of Nevada City amending Title 15 of the Nevada City Municipal Code to adopt the 2016 California Building Standards with local amendments similar to those adopted by Nevada County by Ordinance No. 2424.

RECOMMENDATION: Approve finding that CEQA general rule exception applies, finding this action reflects the independent judgment of the City Council of Nevada City; approve for introduction and first reading of ordinance by title only, waiving further reading of the entire Ordinance.

CONTACT: Hal DeGraw, Consulting City Attorney

BACKGROUND / DISCUSSION: Every three years, the California Building Standards Commission adopts and publishes new editions of the California Building Standards Code that is required to be enforced in all parts of the State. This was last done in 2013 and the Commission has now adopted and published the 2016 triennial edition of the California Building Standards Code with an effective date of January 1, 2017. Local jurisdictions may, as reasonably necessary, establish more restrictive amendments based upon local climatic, topographical or geological conditions.

The County adopted all the required Codes with local amendments in December of 2016 by Ordinance No. 2424 (copy attached) [Grass Valley had a first reading of its adopting ordinance in December of 2016]. Historically the City has contracted with the County for building inspection services since 1962, making it desirable to have essentially the same standards and amendments apply to both jurisdictions. City amendments in prior years have retained the ability of the City to designate an entity other than the County as the Building Official on any project and that option is carried forward in the proposed amendments, however the City had not exercised that option in recent memory.

The City amendments proposed this year also include a new Section 15.04.023 further defining the role of and restricting arbitrary exercise of discretion by any entity selected as the Building Official for any project. The proposed City amendments also include new subsections in Sections 15.04.030 and 15.04.035 defining and limiting the discretion of any designated Building Official on building permits for remodel, restoration, renovation or rehabilitation of properties within the Historical District of Nevada City. The proposed City ordinance for adoption has been reviewed by City Engineering and Fire departments and recommended for approval.

Adoption of the proposed ordinance appears to be exempt from CEQA review pursuant to CEQA Guidelines including Section 15378(b)(5) as an organizational or administrative governmental activity that will not result in direct or indirect physical changes to the environment, and Section 15060(c)(2) as an activity covered by the general rule that CEQA applies only to projects that have the potential for a direct or reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT: No direct fiscal impact to the City as County and City can adopt fees to cover cost of permit processing.

ATTACHMENTS:

1. County Ordinance No. 2424, with Board Agenda Memo
2. Proposed City Ordinance with Exhibit "A"

ENVIRONMENTAL IMPACT: Recommend finding ordinance is exempt from environmental review under CEQA pursuant to §§15378(b)(5) and 15060(c)(2) as recited in proposed ordinance.



ORDINANCE No.

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

AN ORDINANCE AMENDING CHAPTER V OF THE LAND USE AND DEVELOPMENT CODE OF THE COUNTY OF NEVADA, ADOPTING THE 2016 CALIFORNIA BUILDING STANDARDS, AND LOCAL AMENDMENTS THERETO; AND ADOPTION OF EXPRESS FINDINGS OF REASONABLE NECESSITY FOR CHANGES AND MODIFICATIONS TO THE CALIFORNIA BUILDING STANDARDS CODE BASED ON LOCAL CLIMATIC, GEOLOGICAL, OR TOPOGRAPHICAL CONDITIONS

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION I: Legislative Purpose

The State of California revises its building standards on a triennial basis. The building standards are intended to regulate and govern the conditions and maintenance of all property, buildings, and structures by providing standards for supplied utilities, facilities, and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupancy and use.

It is the purpose and the intent of this Ordinance to make substantive revisions to Chapter V (Building) of the Land Use and Development Code to ensure Nevada County's conformity to the 2016 edition of the California Building Standards, to wit, the California Building Code, the California Residential Code, the California Green Building Standards Code, the California Plumbing Code, the California Electrical Code, the California Fire Code, the California Mechanical Code, the California Energy Code, the California Referenced Standards Code, the California Historical Building Code, the 1997 Uniform Housing Code, the 1997 Uniform Code for the Abatement of Dangerous Buildings, the 2015 International Swimming Pool and Spa Code and the 2015 International Property Maintenance Code.

Pursuant to Health and Safety Code Section 17958.5, *et seq.*, a county may make such changes or modifications in the requirements contained in the provisions of the California Building Standards Codes, as are reasonably necessary because of local climatic, geological, or topographical conditions. Nevada County's amendments to the 2016 California Building Standards, which have been made in response to unique climatic, geological, or topographical conditions in Nevada County, are codified in Chapter V of the Land Use and Development Code. Local amendments to the California Building Standards Code shall not become effective until the modifications and findings have been filed with the Building Standards Commission.

SECTION II:

Chapter V of the Land Use and Development Code of the County of Nevada is hereby amended to read as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION III:

1. The Board hereby finds and declares that the amendments to the 2016 California Building Standards, as codified in Chapter V of the Nevada County Land Use and Development Code, are reasonably necessary because of local climatic, geological, and topographical conditions, including average snowfalls ranging from .8 inches per year in the Western County to 202 inches per year in the Eastern County; and the high risk of forest fires within the County. Said amendments are deemed more restrictive than the published 2016 California Building Standards.

2. The Board hereby finds and declares that this Ordinance is exempt from CEQA review pursuant to the CEQA guidelines, including Section 15378(b)(5) as an organizational or administrative governmental activity that will not result in direct or indirect physical changes to the environment, and Section 15060(c)(2) as it does not create a potential for direct, indirect, or reasonably foreseeable physical change in the environment.

SECTION IV:

If any provision of this Ordinance is held unconstitutional or otherwise invalid, the remainder of the Ordinance shall not be affected hereby and shall remain in full force and effect.

This Ordinance shall take effect and be in force at the expiration of thirty (30) days from and after its passage, and it shall become operative on the _____ day of _____, _____, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in _____, a newspaper of general circulation printed and published in the County of Nevada.

TABLE OF CONTENTS

CHAPTER V: BUILDINGS

Article 1. General.....2

Article 2. Chapter 1, Division II Administration Amendments.....7

Article 3. California Building Code Amendments.....14

Article 4. California Residential Code Amendments.....22

Article 5. Fire Safety Standards and California Fire Code Amendments.....26

Article 6. Permit Fees.....40

Article 7. California Plumbing Code Amendments.....43

Article 8. California Mechanical Code Amendments.....49

Article 9. International Swimming Pool and Spa Code Amendments.....53

Article 10. Repealed.....55

Article 11. Landform Grading for Agriculture.....56

Article 12. California Electrical Code.....63

Article 13. Grading.....65

CHAPTER V: BUILDINGS

Article 1 General

Sec. L-V 1.1	Purpose
Sec. L-V 1.2	Applicability
Sec. L-V 1.3	Definitions
Sec. L-V 1.4	Codes and Regulations Adopted
Sec. L-V 1.5	Filing of Copies of Codes
Sec. L-V 1.6	Code Adoption Procedure
Sec. L-V 1.7	Compliance with Environmental Health, Zoning, Encroachment Requirements and other Regulations Prerequisite to a Building Permit
Sec. L-V 1.8	Compliance with Encroachment Requirements and Other Regulations Prerequisite to a Grading Permit
Sec. L-V 1.9	Location of Property Lines
Sec. L-V 1.10	Transfer of Permit

CHAPTER V: BUILDINGS

Article 1. General

Sec. L-V 1.1 Purpose

This Chapter is enacted for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures, regulated equipment, grading and construction activities that result in a land disturbance on private property within this jurisdiction.

Nothing in the codes hereinafter adopted shall be construed to prevent any person from performing his own building, mechanical, plumbing or electrical work, when performed with permits in compliance with this Chapter.

Sec. L-V 1.2 Applicability

This Chapter shall apply, to the extent permitted by law, to all construction in the unincorporated Nevada County.

Sec. L-V 1.3 Definitions

Whenever any of the following names or terms are used herein or in any of the codes adopted by reference by this Chapter, unless the context directs otherwise, such names or terms so used shall have the meaning ascribed hereto by this Section, to wit:

- A. BUILDING OFFICIAL, ADMINISTRATIVE AUTHORITY, RESPONSIBLE OFFICIAL, and similar references to a chief administrative position shall mean the Building Official of the County of Nevada; provided, however, that where such terms are used in connection with those duties imposed by statute or ordinance upon the County Environmental Health Officer, said terms shall include the County Environmental Health Director; where such terms are used in connection with those duties imposed by statute or ordinance upon the Chief of a Fire Department or the County Fire Marshal, said terms shall include the Chief of the Fire Department or County Fire Marshal; and where such terms are used in connection with those duties imposed by ordinance upon the County Code Compliance Officer, said terms shall include the County Code Compliance Officer.
- B. BUILDING DEPARTMENT, OFFICE OF ADMINISTRATIVE AUTHORITY, or HOUSING DEPARTMENT shall mean the Building Department of the County of Nevada.
- C. CITY or JURISDICTION shall mean the County of Nevada when referring to a political entity, or an unincorporated area of said County when referring to area.
- D. CLERK OF THIS JURISDICTION means Clerk of the Board of Supervisors.

- E. GOVERNING BODY, LEGISLATIVE BODY or APPOINTING AUTHORITY means the Board of Supervisors of the County of Nevada.
- F. BOARD OF APPEALS, HOUSING ADVISORY and APPEALS BOARD and any other reference to an appellate body in any of the uniform codes adopted by reference in this Chapter shall mean the Building and Accessibility Standards Board of Appeals provided for in Section L-V 2.2 of the Nevada County Land Use and Development Code.

EXCEPTION: The appellate body for fire and panic safety regulations is within the jurisdiction of the County Fire Marshal/District Fire Chief.

- G. TECHNICAL CODES refer to those codes and publications adopted by the County of Nevada containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance, of buildings and structures and building service equipment as enumerated in Section L-V 1.4 of the Nevada County Land Use and Development Code.

Sec. L-V 1.4 Codes and Regulations Adopted

Subject to the modifications and amendments contained in this Chapter, the following codes and standards are hereby adopted and incorporated into the Land Use and Development Code of Nevada County by reference and having the legal effect as if their respective contents were set forth herein:

- A. Division II, Scope and Administration, 2016 California Building Code.
- B. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 12 (California Referenced Standards Code), in whole thereof.
- C. The 2016 edition of the California Building Code, known as the California Code of Regulations, Title 24, Part 2 (California Building Code), incorporating the International Building Code, 2015 Edition, of the International Code Council, the whole thereof with State amendments, including appendixes "C", "H", I and "J" and amendments set forth in Article 3 of this Chapter.
- D. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 9 (California Fire Code), incorporating the International Fire Code, 2015 Edition, of the International Code Council, the whole thereof with State amendments, save and except article 86 thereof, including appendix chapters and amendments set forth in Article 5 of this Chapter.
- E. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 5 (California Plumbing Code), incorporating the Uniform Plumbing Code, 2015 Edition, of the International Association of Plumbing and Mechanical Officials, the whole thereof with State

amendments, including appendix chapters and amendments set forth in Article 7 of this Chapter.

- F. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 4 (California Mechanical Code), incorporating the Uniform Mechanical Code, 2015 Edition, of the International Association of Plumbing and Mechanical Officials, the whole thereof with State amendments, including appendix chapters and amendments set forth in Article 8 of this Chapter.
- G. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 3 (California Electrical Code), incorporating the National Electrical Code, 2014 Edition, of the National Fire Protection Association, the whole thereof with State amendments, including annex chapters and amendments set forth in Article 12 of this Chapter
- H. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 2.5 (California Residential Code) incorporating the International Residential Code, 2015 Edition, of the International Code Council, the whole thereof with State Amendments, including appendixes “H”, “J”, “K” and “S” and amendments as set forth in Article 4 of this chapter.
- I. The 2016 edition of the California Building Standards Code, known as the California Code of Regulation, Title 24, Part 11 (California Green Building Standards Code) in whole thereof, with State Amendments.
- J. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 6 (California Energy Code) in whole thereof, with State Amendments.
- K. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 8 (California Historical Building Code) in whole thereof, with State Amendments.
- L. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 10 (California Existing Building Code), incorporating the International Existing Building Code, 2015 Edition, of the International Code Council, the whole thereof with State Amendments.
- M. The 2015 International Property Maintenance Code, of the International Code Council.
- N. The 1997 Uniform Code for the Abatement of Dangerous Buildings, of the International Conference of Building Officials.
- O. The 1997 Uniform Housing Code, of the International Conference of Building Officials.

- P. International Swimming Pool and Spa Code, 2015 Edition with the amendments set forth in Article 9 of this Chapter.

Sec. L-V 1.5 Filing of Copies of Codes

The Building Department of the County of Nevada shall maintain on file copies of the Codes and Standards referred to in Section L-V 1.4 of this Chapter.

Sec. L-V 1.6 Code Adoption Procedure

- A. The Building Official shall provide the Board of Appeals with copies of all statutes newly adopted by the State, pursuant to the State Housing Law and State Building Standards Law (Health and Safety Code sections 17910 and 18901, *et seq.*).
- B. The Building Official and Board of Appeals shall:
 - 1. Provide technical review of the newly adopted codes.
 - 2. Report such newly adopted codes to the Board of Supervisors and provide a draft recommendation for consideration by the Board to amend, add to, or repeal ordinances or regulations, to impose the same requirements as are contained in the new State laws, or to make changes or modifications in such requirements upon express findings because of local conditions or factors.
 - 3. Request the Board of Supervisors to schedule a hearing not less than thirty days (30) from the date of their report and place one (1) copy of the codes to be considered by the Board in the office of the Building Department for review by the general public.
- C. The Board of Supervisors shall, upon the request of the Building Official and Board of Appeals, schedule such public hearing to receive public testimony on the codes and any modifications thereto to be adopted by the Board.
- D. The Clerk of the Board of Supervisors shall give notice of the time, place and subject matter of the public hearing scheduled on the matter before the Board. Notification shall be by publication in a newspaper of general circulation published and circulated within the County 10 days prior to the public hearing.
- E. The Board of Supervisors shall hold such public hearing at the date and time scheduled, and shall then act on the recommendation of the Board of Appeals.

Sec. L-V 1.7 Compliance with Environmental Health, Zoning, Encroachment Requirements and Other Regulations Prerequisite to a Building Permit

- A. No building permit shall be issued for any building for which an individual sewage disposal and/or an approved water supply system must be installed, altered or

added to, unless and until the Building Official is satisfied that adequate potable water and sewer disposal are available and that a permit is issued therefore.

- B. No building permit shall be issued for which an encroachment or grading permit is required, unless and until the requirements prerequisite to said encroachment or grading permit has been met.
- C. No building permit shall be issued unless and until the Building Official is satisfied that the construction authorized by the permit will not violate any existing law or ordinance.
- D. No building permit shall be issued unless the Building Official is satisfied that adequate electrical power is supplied.

Sec. L-V 1.8 Compliance With Encroachment Requirements and Other Regulations Prerequisite to a Grading Permit

- A. No grading permit shall be issued for which encroachment approval is required until an encroachment permit has been obtained from the appropriate enforcement agency.
- B. No grading permit shall be issued until the Building Official is satisfied that the work authorized by the permit will not violate any existing law or ordinance, including the Nevada County Zoning Ordinance.
- C. No grading permit shall be issued until a land use permit pursuant to Chapter II of the Nevada County Land Use and Development Code has been granted by the Nevada County Planning Agency.

EXCEPTION: Single family residential development and dams.

Sec. L-V 1.9 Location of Property Lines

Whenever the location of a property line or easement, or the title thereto, is disputed during the building or grading permit application process or during a grading operation, a survey by a registered Land Surveyor or appropriately registered Civil Engineer may be required by the Building Official, at the expense of the applicant, prior to the application being approved or the grading operation resuming.

Sec. L-V 1.10 Transfer of Permit

Whenever a parcel of real property is conveyed and a building permit and/or a grading permit has been issued for work on the property which has been started but not completed, the new owner of the property shall request a transfer of the permit(s) to his/her name and shall assume full responsibility for the work authorized by the permit(s). The new owners upon application shall pay a transfer fee as specified by the latest fee Resolution of the Board of Supervisors for a permit transfer.

CHAPTER V: BUILDINGS

Article 2. Division II Administration

- Sec. L-V 2.1 Section 113: Board of Appeals (change to read): 113.1:
Building and Accessibility Standards Board of Appeals
- Sec. L-V 2.2 Section 114: Violations (add the following)
- Sec. L-V 2.3 Section 105.2: Work Exempt From Permit; Building Permits
(change paragraph 1 to read)
- Sec. L-V 2.4 Section 105.2: Work Exempt From Permit; Building Permits
(add the following)
- Sec. L-V 2.5 Section 105.2: Work Exempt From Permit; Building Permits
(add paragraph to read)
- Sec. L-V 2.6 Section 105.3.2: Time Limitation of Application
- Sec. L-V 2.7 Section 105.5: Expiration (change to read)
- Sec. L-V 2.8 Section 109.2: Schedule of Permit Fees (change to read)
- Sec. L-V 2.9 Section 109.4: Work Commencing Before Permit Issuance
(change to read)
- Sec. L-V 2.10 Section 109.6: Fee Refunds (change to read)

CHAPTER V: BUILDINGS

Article 2. Division II Administration Amendments

The Administrative Division II 2016 California Building Code as adopted by Section L-V 1.4 is adopted with the following amendments:

Sec. L-V 2.1 Section 113: Board of Appeals (change to read): 113.1: Building and Accessibility Standards Board of Appeals

113.1 Building and Accessibility Standards Board of Appeals

- A. In order to hear and decide appeals of discretionary orders, decisions or determinations made by the Building Official relative to the application and interpretation of the provisions of the technical codes, there shall be, and is hereby, created a Building and Accessibility Standards Board of Appeals for Nevada County.
- B. The Board may also rule on appeals of discretionary orders, decisions or determinations made by the Building Official relative to the application and interpretation of State mandated energy regulations contained in Title 24, California Code of Regulations and requirements of the Historical Building Code.
- C. The Board may also rule on appeals of discretionary orders, decisions or determinations made by the Building Official relative to the enforcement of the California Access to Public Accommodations by Physically Disabled Persons regulations (Health and Safety Code Sec. 19955, et seq.).
- D. The Board shall consist of seven (7) members who are qualified by experience and training to pass on matters pertaining to building construction, building service equipment and grading. Two (2) of the seven (7) members shall be physically disabled persons who are qualified by experience and training to pass on matters pertaining to California Disabled Access Regulations. Said Board members may not be employees of the County of Nevada. Each member of the County Board of Supervisors is entitled to appoint one member who will serve at the pleasure of that Supervisor. The remaining two (2) Board members may be appointed by any the Chair of the Board of the Supervisors. The members may be selected from the County at large without regard for Supervisorial District.
- E. The Building Official shall be an ex officio member and serve as secretary to the Board but shall have no vote upon any matter before the Board.
- F. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant. The Board may recommend new legislation or comment on proposed legislation relating to building construction to the Board of Supervisors.

- G. The Board shall have no authority relative to interpretation of the administrative provisions of this code nor shall it be empowered to waive any requirements of this code or the technical codes.
- H. Notwithstanding limitations in paragraph “G”, the Board may consider and authorize substitutions of materials, alternate methods, and types of construction to those specified in Chapter V of the Nevada County Land Use and Development Code, provided that the material, method or work offered is, for the purpose intended, at least the equivalent of that specified in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation. The Board shall require sufficient evidence or proof be submitted to substantiate claims of equivalency and may require tests as proof of compliance at appellant's expense.

Sec. L-V 2.2 Section 114: Violations (add the following):

- A. Maintenance of any building, structure or building service equipment, which was unlawful at the time it was constructed or installed, if constructed or installed after January 1, 1962, shall constitute a continuing violation of this Code and the technical codes.
- B. Violations of any provisions of this Code and the technical codes shall constitute a public nuisance and said conditions may be abated in accordance with existing laws and ordinances.
- C. The issuance of a building permit, septic system, water well, or other permit may be withheld for property on which a violation of the provisions of this code and the technical codes exists, including work performed not in accordance with approved grading plans, until such violation has been corrected or mitigated. There shall be a connection between the violation and permit applied for.
- D. The processing of a tentative tract map, parcel map, zoning change, lot line adjustment, or discretionary use permit may be withheld for property on which a violation of the provisions of this Code exists, including work performed not in accordance with approved grading plans, unless conditioned to require such violation to be corrected or mitigated.
- E. **CRIMINAL ENFORCEMENT.** Any person who violates any provision of this Chapter shall be guilty of an infraction and, upon conviction thereof, shall be subject to mandatory fines of one hundred dollars (\$100) for a first violation; five hundred dollars (\$500) for a second violation of the same Section within a twelve month period; and one thousand dollars (\$1,000) for a third or subsequent violation within a twelve month period. Every day any violation continues shall constitute a separate offense punishable by a separate fine.
- F. In addition to the provisions of the Subsections above, a notice of violation of this Code or the technical codes may be recorded in the office of the County Recorder. A notice of expungement of the notice of violation shall be recorded with the County

Recorder when it is determined that a permit is not required or all remedial work has been completed and approved.

- G. NONEXCLUSIVE REMEDIES. The remedies provided herein are not exclusive, and are in addition to any other remedy or penalty provided by law.

Sec. L-V 2.3 Section 105.2: Work Exempt From Permit; Building Permits (amend paragraph 1 to read):

1. One-story detached accessory buildings without electrical, mechanical or plumbing not intended for habitation, provided the projected roof area does not exceed 200 square feet. One structure per parcel.

Sec. L-V 2.4 Section 105.2: Work Exempt From Permit; Building Permits (add the following):

14. Detached trellis or arbor accessory to single family residential property, provided the projected roof area does not exceed 200 square feet.
15. Agricultural structures, not intended for habitation, accessory to residential property in zoning districts "AG", "AE", "RA", "FR" and "TPZ" that meet all of the following conditions:
 - a. Not a place of employment where agricultural products are processed, treated, or packaged, nor shall it be a place used by the public.
 - b. Of simple construction using conventional construction methods (concrete, steel frame, masonry and other technologies that generally require engineering are not exempt) or specifically approved manufactured structures.
 - c. Structures must meet the following limits:
 - 1) Pole Barns. Limited in size to 1,000 square feet maximum. One pole barn per parcel or 20 acres. Open from ground to eave on all sides. Distance to other structures must be equal to its height, minimum of 20 feet. Minimum of 100 feet from property line.
 - 2) Shade Structures. Cover limited to woven shade fabric.
 - 3) Animal Husbandry. Limited in size to 400 square feet maximum. One structure per parcel or 10 acres. Single wall construction. Dirt floor or gravel. Distance to other structures minimum of 10 feet. Minimum of 40 feet from property line.
 - 4) Pump Houses. Limited in size to 100 square feet.

- 5) Greenhouses. Limited in size to 400 square feet. One structure per parcel or 10 acres. Wood or PVC construction with rigid plastic or fiberglass cover. Dirt or gravel floor.
- 6) Storage Containers. Limited in size to 320 square feet. One container per parcel or 5 acres. Container is used for light nonhazardous agricultural storage and shall not be structurally modified or have any electrical, mechanical or plumbing utilities.

Pole barns, shade structures, animal husbandry and greenhouses require site plan review and approval and a letter of exemption issued by the Building Official.

Sec. L-V 2.5 Section 105.2: Work Exempt From Permit; Building Permits (add paragraph to read):

Exemption from the permit requirements of this Section shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the technical codes adopted by this jurisdiction or any other laws or ordinances of this jurisdiction including zoning setback requirements.

Sec. L V 2.6 Time Limitation of Application (change to read):

Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend time for action by the applicant for a period not exceeding 90 days upon request by the applicant in writing showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than twice. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

Sec. L-V 2.7 Section 105.5: Expiration (change to read):

Every permit issued by the Building Official under the provisions of the technical codes shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit or if the building or work authorized by such permit is suspended or abandoned for a period of 180 days at any time after the work is commenced. For building permits issued for projects above 4,000ft elevation such permit shall become null and void if the building or work authorized by such permit is not commenced within one (1) year from the date of such permit or if the building or work authorized by such permit is suspended or abandoned for a period of one (1) year at any time after the work is commenced. Before such work can be recommenced, the permit shall be renewed. The fee for renewal shall be a minimum of one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work,

and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after the building or work has been suspended or abandoned or the permit has been expired for a period exceeding one year, the permittee shall pay a new full permit fee, submit plans meeting minimum standards per the most recent adopted versions of the California Building Standards Codes and obtain a new building permit. Permits deemed to have expired shall be subject to all permit related fee increases and new fees in effect at the time of permit renewal as applicable subject to the discretion of the Building Official. The Building Official shall have discretion to adjust permit renewal fees when extenuating circumstances exist.

Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than twice. Upon written request by the applicant, the Building Official may authorize an extension of up to an additional 180 days from the date the permit expiration date.

All building permits shall expire two years after the issuance date. The permit may be extended beyond this period if the work authorized by the permit is being diligently pursued but only upon written request by the permittee. Review of the request and granting of an approved time extension beyond two years shall be made by the Building Official. A maximum one year extension of time may be granted in 180 day intervals when approved by the Building Official based on extenuating circumstances.

Permits may be issued with a limited time when necessary to abate dangerous, substandard or illegal conditions. The Building Official may establish the expiration date depending on the health/safety hazard.

Sec. L-V 2.8 Section 109.2: Schedule of Permit Fees (change to read):

Permit fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Plan review fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 2.9 Section 109.4: Work Commencing Before Permit Issuance (change to read):

If work is done in violation of this Chapter or such work is not done in accordance with an approved permit, a fee covering investigation of any violation, inspection and plan checking of work required to correct such violation shall be charged to the violator to cover all actual costs. This fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The payment of such fee shall not exempt an applicant from compliance with all other provisions of either this Code or the technical

codes nor from the penalty prescribed by law. The applicant may appeal the assessment of a penalty to the Building and Accessibility Standards Board of Appeals.

Where work for which a permit is required by this Chapter is started or proceeded with prior to the obtaining of such permit, the fees set forth in the fee schedule adopted by the Board of Supervisors may be increased by the Building Official but shall not be more than double the fees specified for obtaining the permit for the first violation and not more than fourfold the fees specified for obtaining the permit for a second or subsequent violation by the same individual. The payment of such fee shall not exempt an applicant from compliance with all other provisions of either this code or the technical codes in the execution of the work nor from penalties prescribed in Sections L-I 1.7 and L-V 2.3 of the Land Use and Development Code.

Sec. L-V 2.10 Section 109.6: Fee Refunds (change to read):

Upon request of the Applicant prior to the expiration of the building permit, the Building Official may authorize refunding the permit fee, less an administration fee established by Resolution of the Board of Supervisors, when no work has been performed under a permit issued in accordance with this Code.

The Building Official may authorize refunding the plan review fee paid, less a refund processing fee and the administration fee established by Resolution of the Board of Supervisors, when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any examination time has been expended. The refund of these separate and independent fees shall not exceed 80% of the individual plan review or building permit fee.

The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 90 days after the date of fee payment. Refund amounts of less than \$25.00, calculated after appropriate deductions, shall not be refunded.

CHAPTER V: BUILDINGS

Article 3. California Building Code Amendments

Sec. L-V 3.1	Division II, Section 113: Board of Appeals, General (change to read)
Sec. L-V 3.2	Division II, Section 105.2: Work Exempt from Permit (change to read)
Sec. L-V 3.2.1	Division II, Section 105.3.2: Time Limitation of Application (change to ready):
Sec. L-V 3.3	Division II, Section 105.5: Permit Expiration (change to read)
Sec. L-V 3.4	Division II, Section 109.2: Schedule of Permit Fees (change to read)
Sec. L-V 3.5	Section 202: R (add the following definition)
Sec. L-V 3.6	Section 1505.1: Fire Classification (change to read as follows)
Sec. L-V 3.7	Section 1507.2.8.2: Ice Dam Membrane Application (add the following)
Sec. L-V 3.8	Section 1507.2.9.2: Valleys and Section 1507.2.9.2 #3 Valleys: Flashing (add the following text)
Sec. L-V 3.9	Section 1507.3.3: Underlayment (add the following)
Sec. L-V 3.10	Section 1608.2: Ground Snow Loads (change to read as follows)
Sec. L-V 3.11	Section 1608.2.1: Snow Loads (add a subsection to read as follows): 1608.2.1: Ramadas
Sec. L-V 3.12	Added Section 1608.4
Sec. L-V 3.13	Section 7.6.1: Unbalanced Snow Loads for Hip and Gable Roofs, ASCE 7-10 (add a new subsection to read) 7.6.1.1: Unbalanced Snow Loads for Ground Snow Loads Over 100 PSF
Sec. L-V 3.13.1	Section 7.7.1: Lower Roof of a Structure, ASCE 7-10 (change equation 7.7-1 to read as follows)

- Sec. L-V 3.13.2 Table 7-2 Exposure Factor, C_e , ASCE 7-10 (change foot note 'a' to read as follows)
- Sec. L-V 3.13.3 Table 7-3 Thermal Factor, C_t , ASCE 7-10 (replace Table 7-3 Thermal Factor, C_t , with the following table)
- Sec. L-V 3.14 Section 1809.5 Frost Protection (change to read)
- Sec. L-V 3.15 Section 3109.4.1: Barrier Height and Clearances (change to read)

CHAPTER V: BUILDINGS

Article 3. California Building Code Amendments

The California Building Code as adopted by Section L-V 1.4 is adopted with the following amendments:

Sec. L-V 3.1 Division II Section 113: Board of Appeals, General (change to read):

Appeals resulting from decisions or determinations made by the Building Official relative to the application and interpretation of this Code shall be heard by the Building and Accessibility Standards Board of Appeals as set forth in Section L-V 2.2 of the Nevada County Land Use and Development Code.

Sec. L-V 3.2 Division II, Section 105.2: Work Exempt from Permit (change to read):

Work exempt from permit requirements shall be as set forth in the 2016 California Building Code, Section 105.2, as adopted by Nevada County, with County amendments.

Sec. L-V 3.2.1 Division II, Section 105.3.2: Time Limitation of Application (change to ready):

The time limitation of permit applications shall be as set forth in the California Building Code, Section 105.3.2, as adopted by Nevada County, with County amendments.

Sec. L-V 3.3 Division II Section 105.5: Permit Expiration (change to read):

Permit expiration for every permit issued by the Building Official shall be as set forth in the California Building Code, Section 105.5, as adopted by Nevada County, with County amendments.

Sec. L-V 3.4 Division Section 109.2 Schedule of permit fees (change to read):

Permit fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Plan review fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 3.5 Section 202: R (add the following definition):

RAMADA is any freestanding roof, or shade structure, installed or erected above a mobile home, manufactured home, commercial coach, or any portion thereof.

Sec. L-V 3.6 Section 1505.1: Fire Classification (change to read as follows):

The roof covering or roofing assembly on any structure regulated by this Code, unless specifically exempted, shall be listed Class A, as classified in Section 1505.1.

The roof covering assembly includes the roof deck, underlayment, interlayment, insulation and covering, which is assigned a roof covering classification.

Sec. L-V 3.7 Section 1507.2.8.2: Ice Dam Membrane (add the following):
1507.2.8.3: Underlayment Ice Dams

1507.2.8.3 UNDERLAYMENT ICE DAMS. An "ice dam" or "ice guard" is required on the roofs of heated buildings constructed at elevations above 4,000 feet above sea level. All roofs, regardless of covering, with a pitch of less than 8 in 12 shall be protected against leakage (caused by ice and snow) by either: (1) a base sheet of felt solid cemented to the roof sheathing with an approved cementing material, or (2) an approved manufactured membrane installed per the manufacturer's specifications. Application shall extend from the roof eave edge up the roof to a line five (5) feet horizontally inside the exterior wall line of the heated building and up 30 inches along each side of a valley. Where there exists both conditioned space and unconditioned space, the required covering shall also extend horizontally to a point at least five (5) feet onto the unconditioned space. This "ice dam"/"ice guard" shall be in addition to any underlayment otherwise required.

Sec. L-V 3.8 Section 1507.2.9.2: Valleys (add the following text):

Above 4,000 feet elevation above sea level, valley flashing shall be installed to the requirements for severe climate (areas subject to wind-driven snow and ice buildup).

Sec. L-V 3.9 Section 1507.3.3: Underlayment (add the following):

Above 4,000 feet elevation above sea level, underlayment shall be installed to the requirements for severe climate (areas subject to wind-driven snow and ice buildup).

Sec. L-V 3.10 Section 1608.2: Ground Snow Loads (change to read as follows):

- A. All of Nevada County is declared a snow area. Buildings and structures shall be designed to resist snow loads as set forth herein. Except as provided in this Section, snow load requirements shall be as shown in Tables 16-C-1 and 16-C-2.

Table 16-C-1

Snow load requirements applicable west of the west section line of Sections 5, 8, 17, 20, 29 & 32 R. 16 E., T 17 and 18 N., M.D.B. and M.

<u>Elevation</u>	<u>Snow Load</u>
0-2000 ft.	29 psf
2001-2500 ft.	43 psf
2501-3000 ft.	57 psf
3001-3500 ft.	71 psf

3501-4000 ft.	117 psf
4001-4500 ft.	157 psf
4501-5000 ft.	200 psf
5001-5500 ft.	257 psf
5501-6000 ft.	314 psf
6001-6500 ft.	371 psf
6501-7000 ft.	428 psf
7001-7500 ft.	485 psf
7501-8000 ft.	542 psf

Table 16-C-2

Snow load requirements applicable east of the east section line of Sections 5, 8, 17, 20, 29 & 32 R. 16 E., T 17 and 18 N., M.D.B. and M.

<u>Elevation</u>	<u>Snow Load</u>
0-5000 ft.	71 psf
5001-5500 ft.	129 psf
5501-6000 ft.	186 psf
6001-6500 ft.	243 psf
6501-7000 ft.	300 psf
7001-7500 ft.	357 psf
7501-8000 ft.	400 psf
8001-8500 ft.	443 psf

Intermediate values may be interpolated from Table 16-C-1 and Table 16-C-2 by proportion.

- B. The snow loads for within Sections 5, 8, 17, 20, 29 and 32 R., 16 E., T. 17 and 18 N., M.D.B. and M. shall be on a straight line proportion between the values shown in Table 16-C-1 and Table 16-C-2 based on the distance of the site from the boundary of the transition zone.
- C. Higher snow loading than those shown in Tables 16-C-1 and 16-C-2 may be required by the Building Official in local areas of known higher snow accumulation.
- D. Deviations from the above set forth snow loading may be permitted by the Building Official, provided the snow load and conditions in each individual case are derived and certified by a registered or licensed design professional who can show proper experience in snow load evaluation. Snow load design procedure shall be as set forth in Section 1608.
- F. In no case shall the design snow load be less than 20 psf.

Sec. L-V 3.11 Section 1608.2.1: Snow Loads (add subsection to read as follows):
1608.2.1: Ramadas

1608.2.1 RAMADAS. Mobile homes or commercial coaches that do not meet the applicable snow load requirement of Title 25, California Code of Regulations, or Section L-V 3.10 of the Nevada County Land Use and Development Code for their location, shall be protected by a ramada designed for the loading. A registered or licensed design professional shall design such ramadas.

Sec. L-V 3.12 Added Section 1608.4

Depth of ground snow may be calculated by dividing the applicable snow load set forth in Section L-V 3.10 of the Nevada County Land Use and Development Code by 25.

Sec. L-V 3.13 Section 7.6.1: Unbalanced Snow Loads for Hip and Gable Roofs,
ASCE 7-10 (add a new subsection to read) 7.6.1.1: Unbalanced
Snow Loads for Ground Snow Loads Over 100 PSF

7.6.1.1: Unbalanced Snow Loads for Ground Snow Loads Over 100 PSF

The following conditions are for the leeward side of a structure. The windward loading shall be in accordance with Section 7.6.1.

1.) For roof pitches of less than 6/12 (26.6 degrees) where the ground snow load (P_g) exceeds 100 psf, the unbalanced snow load need not exceed:

0 psf at the ridge and
(hr) γ psf at the eave
(see Figure 7.6.1.1-1)

Where: hr - Vertical distance between the eave and the ridge (ft)
 γ - Density of snow (pcf)

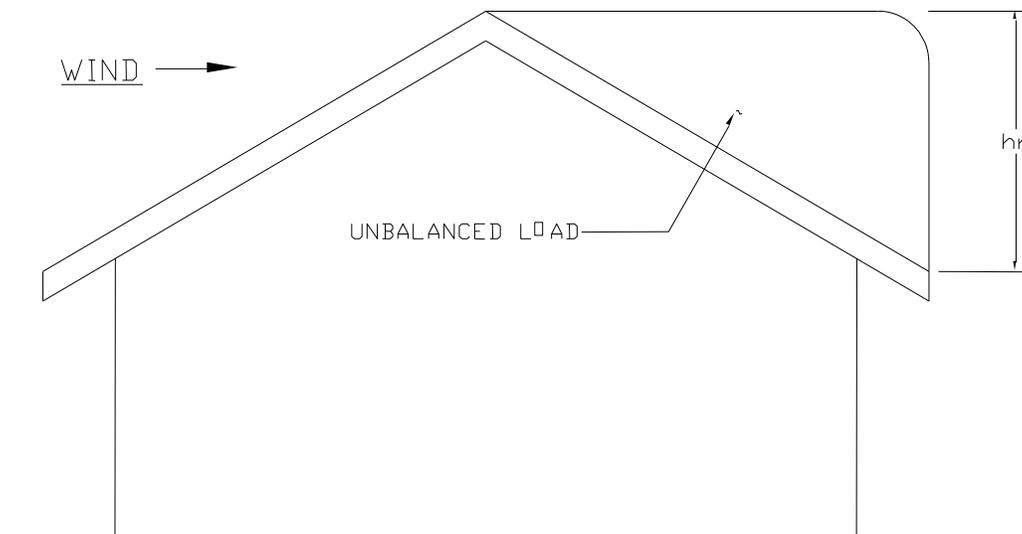


Figure 7.6.1.1-1

2.) For roof pitches of 6/12 (26.6 degrees) and greater where the ground snow load (Pg) exceeds 100 psf where the roof is partially exposed or sheltered in Terrain Category B and C, or sheltered in Terrain Category D, the unbalanced snow load need not exceed the sloped roof snow load (Ps). Terrain Categories are those defined in Table 7-2. For areas not meeting the terrain category and exposure as described, the unbalanced snow load need not exceed the load as defined in 1.) above.

Sec. L-V 3.13.1 Section 7.7.1: Lower Roof of a Structure, ASCE 7-10 (change equation 7.7-1 to read as follows):

$$\gamma = 25 \text{ pcf}$$

$$\text{(in SI: } \gamma = 3.9 \text{ kN/m}^3\text{)}$$

Sec. L-V 3.13.2 Table 7-2 Exposure Factor, Ce, ASCE 7-10 (change foot note 'a' to read as follows):

^aDefinitions: Partially Exposed: all roofs except as indicated in the following text. Fully Exposed: roofs exposed on all sides with no shelter^b afforded by terrain, higher structures, or trees. Roofs that contain several large pieces of mechanical equipment, parapets that extend above the height of the balanced snow load (h_b), or other obstructions are note in this category. Sheltered: roofs located where there are very tight conifer trees in very close proximity to a structure, r if an obstruction, such as a tall hill, is located within a distance of 10 times the height of the difference in height between the top of the roof and the top of the obstruction as noted in footnote “b”.

Sec. L-V 3.13.3 Table 7-3 Thermal Factor, Ct, ASCE 7-10 (replace Table 7-3 Thermal Factor, Ct, with the following table):

TABLE 7-3 THERMAL FACTOR, Ct

Thermal Condition ^a	C _t
All Structures except as indicated below	1.0
Structures kept just above freezing, structures with specifically designed cold roofs ^c and for enclosed portions of a completely unheated structure.	1.1
Structures intentionally kept below freezing	1.2
Continuously heated greenhouses ^b with a roof having a thermal resistance (R-value) Less than 2.0 °F·h·ft ² /Btu (0.4 K·m ² /W)	0.85

^a These conditions shall be representative of the anticipated conditions during winters for the life of the structure.

^b Greenhouses with constantly maintained interior temperature of 50 °F (10 °C) or more at any point three (3) feet above the floor level during winters and having either a maintenance attendant on duty at all times or a temperature alarm system to provide warning in the event of a heating failure.

^c A specifically designed cold roof is defined as a well vented (exceeding code minimum) roof with an insulation system intended to mitigate icing at the eaves, which creates an air-tight or nearly air-tight envelope below the well ventilated space.

Sec. L-V 3.14 Section 1809.5 Frost Protection (change to read)

Unless erected on solid rock, to protect against frost and freezing, the minimum foundation depth is 18 inches below grade if between 4,000-7,000 foot elevation and 24 inches below grade for 7,000 foot elevation and above.

Exception: Interior footings shall be a minimum of 12 inches below grade.

Sec. L-V 3.15 Section 3109.4.1: Barrier Height and Clearances (change to read)

The top of the barrier shall be at least 60 inches (1524mm) above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches (51mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, and the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four (4) inches (102mm).

CHAPTER V: BUILDINGS

Article 4 California Residential Code Amendments

- Sec. L-V 4.1 Division II Administration, Section R105.2 Work Exempt from Permit
- Sec. L-V 4.2 Section R105.2: Work Exempt from Permit; Building Permits
- Sec. L-V 4.3 Section R105.5: Expiration
- Sec. L-V 4.4 Section R108.2: Schedule of Permit Fees
- Sec. L-V 4.5 Section R108.5: Refunds
- Sec. L-V 4.6 Section R108.6: Work Commencing Before Permit Issuance
- Sec. L-V 4.7 Section R301.2.3 Snow Loads
- Sec. L-V 4.8 Section R301.2 Table R301.2(1) Climatic and Geographic Design Criteria
- Sec. L-V 4.9 Section R402.2 Concrete & Table R402.2 Minimum Specified Compressive Strength of Concrete
- Sec. L-V 4.10 Section R403.1.4.1 Frost Protection (change to read)

CHAPTER V: BUILDINGS

Article 4 California Residential Code Amendments

The California Residential Code as incorporated into the Land Use and Development Code by Section L-V 1.4 is adopted with following amendments:

Sec. L-V 4.1 Division II Administration, Section R105.2 Work Exempt from Permit (changed to read):

Refer to L-V 2.3, Section 105.2.

Sec. L-V 4.2. Section R105.2: Work Exempt From Permit; Building Permits (add paragraph to read):

Refer to L-V 2.5, Section 105.2.

Sec. L-V 4.3 Section R105.5: Expiration (change to read):

Refer to L-V 2.7, Section 105.5.

Sec. L-V 4.4 Section R108.2: Schedule of Permit Fees (change to read):

Refer to L-V 2.8, Section 109.2.

Sec. L-V 4.5 Section R108.5: Refunds (change to read):

Refer to L-V 2.10, Section 109.6.

Sec. L-V 4.6 Section R108.6: Work Commencing Before Permit Issuance:

Refer to L-V 2.9, Section 109.4.

Sec. L-V 4.7 R301.2.3: Snow Loads (change to read):

Refer to L-V 3.10 – 3.13.3

Sec. L-V 4.8 Section R301.2 & Table R301.2(1) Climatic and Geographic Design Criteria

Table R301.2 (1) changed to the read the following:

TABLE R301.2(1)
CLIMATIC AND GEOGRAPHICAL CRITERIA <4,000 FT. ELEVATION

GROUND SNOW LOAD	WIND DESIGN		SEISMIC DESIGN CATEGORY f	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP ^e	ICE BARRIER UNDERLAYMENT REQUIRED ^h	FLOOD HAZARDS ^g	AIR FREEZING INDEX ⁱ	MEAN ANNUAL TEMP ^j
	Speed ^d (mph)	Topographic effects ^k		Weathering ^a	Frost line depth ^b	Termite ^c					
Per GIS	85	NO	D0	NO	12"	YES	32	NO	FEMA	50	59

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s

a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (ie., "negligible," "moderate" or "severe") for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216, or C 652.

b. The frost line depth may require deeper footings than indicated in Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.

c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.

d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4

e. *Temperatures* shall be permitted to reflect local climates or local weather experience as determined by the building official.

f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.

g. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the Flood Insurance Study and (c) the panel numbers and dates of all currently effective FIRMs and FBFMs or other hazard map adopted by the authority having jurisdiction, as amended.

h. In accordance with Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1, and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."

i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99%) value on the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32°F)" at www.ncdc.noaa.gov/fpsf.html.

j. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32°F)" at www.ncdc.noaa.gov/fpsf.html.

k. In accordance with Section R301.2.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall indicate "NO" in this part of the table.

l. a) Starting at the southern county line, West of Highway 174 to Brunswick Road then

b) West of Brunswick Road to Highway 49

c) West of Highway 49 to the northern County line.

d) All areas within Nevada City Limits are excluded from this area (this table may not be used in Nevada City)

Sec. L-V 4.9 Section R402.2 Concrete & Table R402.2 Minimum Specified Compressive Strength of Concrete

Table R402.2 changed to read the following:

**TABLE R402.2
MINIMUM SPECIFIED COMPRESSIVE STRENGTH OF CONCRETE**

TYPE OR LOCATION OF CONCRETE CONSTRUCTION	MINIMUM SPECIFIED COMPRESSIVE STRENGTH ^a (<i>f'_c</i>)		
	Weathering Potential ^b		
	<u>Negligible</u>	<u>Moderate</u>	<u>Severe</u>
Basement walls, foundations and other concrete not exposed to the weather	2,500	2,500	2,500 ^c
Basement slabs and interior slabs on grade, except garage floor slabs	2,500	2,500	2,500 ^c
Basement walls, foundation walls, exterior walls and other vertical concrete work exposed to the weather	2,500	3,000 ^d	3,000 ^d
Porches, carport slabs and steps exposed to the weather, and garage floor slabs	2,500	3,000 ^{d,e,f}	3,500 ^{d,e,f}

For SI: 1 pound per square inch = 6.895 kPa.

a. Strength at 28 days psi.

b. See table R301.2(1) for weathering potential.

c. Concrete in these locations that may be subject to freezing and thawing during construction shall be air-entrained concrete in accordance with Footnote d.

d. Concrete shall be air-entrained. Total air content (percent by volume of concrete) shall be not less than 5 percent or more than 7 percent.

e. See Section R402.2 for maximum cementitious materials content.

f. For garage floors with a steel troweled finish, reduction of the total air content (percent by volume of concrete) to not less than 3 percent is permitted if the specified compressive strength of the concrete is increased to not less than 4,000 psi.

Sec. L-V 4.10 Section R403.1.4.1 Frost Protection (change to read)

Refer to Sec. L-V 3.14

CHAPTER V: BUILDINGS

Article 5. Fire Safety Standards and California Fire Code Amendments

Sec. L-V 5.1	Purpose
Sec. L-V 5.2	Application
Sec. L-V 5.3	Definitions
Sec. L-V 5.4	Responsibility for Enforcement and Review
Sec. L-V 5.5	Duties of County Fire Marshal
Sec. L-V 5.6	Appointment of County Fire Marshal
Sec. L-V 5.7	Penalties
Sec. L-V 5.8	Fire Agency Appeals
Sec. L-V 5.9	Code Adoption Procedure
Sec. L-V 5.10	Appendix Chapters Adopted
Sec. L-V 5.11	Section 113.1.1: Fees (add a subsection to read): 113.1.1 Fees
Sec. L-V 5.12	Section 105: Permits (add a subsection to read): 105.8: New Materials, Processes or Occupancies Which May Require Permits
Sec. L-V 5.13	Section 505: Premises Identification (add a subsection to read: 505.3 Utility Identification
Sec. L-V 5.14	Section 506.1: Key Box (add the following text)
Sec. L-V 5.15	Section 907: Fire Alarm and Detection Systems (add a subsection to read): 907.10 False Alarms
Sec. L-V 5.16	Permits for Burning Operations
Sec. L-V 5.17	Incinerators, Open Burning and Commercial Barbecue Pits Additional Enforcement Authorized
Sec. L-V 5.18	Construction
Sec. L-V 5.19	Fire-Extinguishing Equipment; and Supervision of Incinerator Burning Operations
Sec. L-V 5.20	Open Burning

- Sec. L-V 5.21 Section 5706.2.4.4: Location Where Above Ground Tanks are Prohibited (add exceptions)
- Sec. L-V 5.22 Section 6103: Installation of Equipment (add a paragraph to read):
- Sec. L-V 5.23 Appendix B: Fire-Flow Requirements for Buildings (add a section to read as follows): B107 Automatic Fire Alarm System
- Sec. L-V 5.24 Appendix B: Fire-Flow Requirements for Buildings (add a section to read as follows): B108 Automatic Fire Sprinkler System
- Sec. L-V 5.25 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C106 Location of Dry Hydrants
- Sec. L-V 5.26 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C107 Installation of Dry Hydrants
- Sec. L-V 5.27 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C108 Dry hydrant connection
- Sec. L-V 5.28 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C109 Freeze Protection
- Sec. L-V 5.29 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C110 Venting of Closed Containers
- Sec. L-V 5.30 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C111 Lakes, Reservoirs, and Ponds
- Sec. L-V 5.31 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C112 Water Supply Signage
- Sec. L-V 5.32 Appendix D, Section D101: Fire Apparatus Access Roads (add a paragraph to read as follows):

CHAPTER V: BUILDINGS

Article 5. Fire Safety Standards and California Fire Code Amendments

Sec. L-V 5.1 Purpose

This Article prescribing regulations governing fire prevention is enacted to provide increased protection from fire to residents and property within Nevada County. It is also intended to encourage a greater degree of uniformity between the local fire districts and outside districts in the imposition of fire safety regulations on new construction and existing buildings, while respecting the autonomy of the local fire protection districts.

Sec. L-V 5.2 Application

Notwithstanding any provision in the California Fire Code to the contrary, if any provisions of the California Fire Code, as amended by this Article, conflict with state law or County ordinances, the provisions of state law or County ordinances shall govern.

Sec. L-V 5.3 Definitions

As used in this Article and the California Fire Code, certain words and phrases are defined and shall be deemed to have the meaning ascribed to them herein.

- A. COUNTY FIRE MARSHAL is the person appointed to said position pursuant to Section L-V 5.6, acting directly or through the County Fire Protection Planner.
- B. COUNTY FIRE PROTECTION PLANNER is the designee and authorized representative of the County Fire Marshal.
- C. FIRE BREAK shall mean a continuous strip of land upon which all rubbish, weeds, grass, or other growth that could be expected to burn when dry, has been abated or otherwise removed in order to prevent the surface extension of fire from one area to another.

Sec. L-V 5.4 Responsibility for Enforcement and Review

Except as otherwise required by controlling State law, enforcement of fire safety laws, standards and regulations and review of projects for compliance therewith shall be as follows in the unincorporated areas of Nevada County:

- A. The California Fire Code, as amended and adopted in this Article, shall be enforced:
 - 1. By the Chief of any fire department or the authorized representative thereof within its jurisdiction, and
 - 2. By the County Fire Marshal outside the jurisdiction of a fire department providing fire protection services or within such boundaries as authorized by the Chief.

- B. The building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the State Building Standards Code and other regulations formally adopted by the State Fire Marshal for prevention of fire or for protection of life and property against fire or panic shall be enforced against all buildings and uses, including those owned or operated by the State or the County only to the extent State law expressly makes the same applicable and enforceable against such governmental entities:
1. By the State Fire Marshal as to State owned or operated buildings;
 2. By the County of Nevada, through its Building Department or its authorized representative, throughout the unincorporated areas of the County:
 - a. Those standards and regulations more stringent than the requirements published in the California Building Standards Code relating to fire and panic safety adopted pursuant to Health and Safety Code Section 13143.5 or ratified pursuant to Health and Safety Code Section 13869.7 where enforcement is not otherwise delegated upon adoption or ratification, and
 - b. Those relating to R-3 occupancies, excluding adopted building standards relating to fire and panic safety applicable to Small and Large Day Care Centers, the enforcement of which shall be as provided in subsections B.3 and B.4 hereof;
 3. By the Chief of any fire department or their authorized representative within its jurisdiction:
 - a. Those standards and regulations more stringent than the requirements published in the California Building Standards Code relating to fire and panic safety adopted pursuant to Health and Safety Code Section 13143.5 or ratified pursuant to Health and Safety Code Section 13869.7 where enforcement is delegated to it; and
 - b. All other standards and regulations, except as provided in subsections B.1, B.2 or B.4 hereof; and
 4. By the County Fire Marshal all standards and regulations applicable outside the jurisdictional boundaries of a fire department providing fire protection services or within such boundaries upon request of the Chief or governing body thereof with approval of the State Fire Marshal.
- C. Whenever any application is made to the County for issuance of any discretionary land use permit or other land use entitlement, the County Fire Marshal, after consultation with any Fire Chief or other person with enforcement responsibility pursuant to this Article, shall have the final authority and responsibility for review

of such application and preparation of comments and appropriate mitigation measures and/or conditions of approval to be requested to assure compliance with all applicable fire safety laws, standards and regulations. To facilitate such review, copies of all such applications shall promptly be provided to the County Fire Marshal and to any Fire Chief or other person with enforcement responsibility.

Sec. L-V 5.5 Duties of County Fire Marshal

- A. In addition to enforcement responsibilities provided for in subsections A and B and review responsibilities provided for in Subsection C of Section L-V 5.4 hereof, the duties of the County Fire Marshal shall include fire prevention, code inspection, and fire investigation for the unincorporated areas of Nevada County outside the jurisdictional boundaries of a fire department or within such boundaries as authorized by the Chief.
- B. The County Fire Marshal may designate another qualified person, who shall be known as the County Fire Protection Planner, as his authorized representative to carry out all or any part of his duties under this Section. The appointment of the Fire Protection Planner is subject to ratification by the Board of Supervisors and shall not become effective until said ratification. Any fire department or fire department governing body may, by written request, delegate their authority to the County Fire Protection Planner to review and determine appropriate mitigation measures and/or conditions of approval for any project in its jurisdiction.

Sec. L-V 5.6 Appointment of County Fire Marshal

The Nevada County Board of Supervisors shall appoint the County Fire Marshal. In a timely manner thereafter, the County Fire Marshal shall appoint his or her chief staff officers as Deputy Fire Marshals to operate under the authority of the Nevada County Board of Supervisors. Appointment of Deputy Fire Marshals is subject to ratification by the Board of Supervisors and shall not become effective until said ratification.

Sec. L-V 5.7 Penalties California Fire Code Section 109.4

- A. 109.4 Violation Penalties. Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of approved construction documents or directive of the fire code official, or of a permit or certificate used under provision of this code, shall be guilty of an infraction, punishable by a fine of not more than five hundred dollars or imprisonment not exceeding six months in the County Jail, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The application of the above penalty shall not be the exclusive remedy nor shall the penalty be held to prevent the enforced removal of prohibited conditions.
- B. Any person who violates or fails to comply with a notice or order of the County Fire Marshal shall be guilty of a misdemeanor.

Sec. L-V 5.8 Fire Agency Appeals

Appeals from decisions to approve or not to approve permits pursuant to this Article resulting from a dispute as to interpretation of any regulation between the County Fire Marshal and any Fire Chief, or authorized representatives of either, may be taken directly to the Board of Supervisors or their designee within ten (10) calendar days from the date of the decision, where no provision is otherwise made for appeal. The sole issue to be decided on such appeal shall be compliance with provisions of this Article. Such appeals shall be processed pursuant to Article 5 of Chapter II of the Land Use and Development Code.

Sec. L-V 5.9 Code Adoption Procedure

- A. The County Fire Marshal or his or her designee shall review fire and panic safety regulations adopted by the State pursuant to Health and Safety Code Secs. 13143, *et seq.* and Public Resources Code Secs. 4290, *et seq.* and shall recommend to the Board of Supervisors for consideration the adoption of amendments and additions to, or deletions from, such regulations.
- B. Upon receipt of the County Fire Marshal's report and recommendations, the Board of Supervisors shall set a public hearing to receive public testimony on the proposed changes.

Sec. L-V 5.10 Adopt the 2016 California Fire Code as printed by International Code Council Inc. and amended by State Fire Marshal Office and including all the Appendices Chapters.

Sec. L-V 5.11 California Fire Code, Section 113.1.1: Fees (add a subsection to read):

113.1.1 FEES. The Chief of each local fire protection district may charge and receive such fees and charges for services and permits relating to activities of fire prevention pursuant to the Fire Code. Said fees and charges may be set by Resolution of each local fire protection district.

Sec. L-V 5.12 California Fire Code, Section 105: Permits (add a subsection to read): 105.8 New Materials, Processes or Occupancies Which May Require Permits

105.8 NEW MATERIALS, PROCESSES, OR OCCUPANCIES THAT MAY REQUIRE PERMITS. The Chief of each local fire protection district shall determine and specify, after giving affected persons the opportunity to be heard, any new materials, processes, or occupancies which shall require permits, in addition to those enumerated in said code.

Sec. L-V 5.13 California Fire Code, Section 505: Premises Identification (add a subsection to read): 505.3 Utility Identification

505.3 UTILITY IDENTIFICATION. Gas and electrical meters, services, switches, and shut-off valves in multi-unit commercial and residential buildings shall be clearly and legibly marked to identify the unit or space that it serves.

Sec. L-V 5.14 California Fire Code, Section 506.1: Key Box (add the following text):

A key box, approved by the responsible fire agency, shall be installed in buildings with automatic fire sprinkler and/or fire alarm systems.

The owner or person in charge of the premises shall notify the responsible fire agency without delay when the required keys providing access to the facility have been changed. Proper keys shall be made immediately available.

Sec. L-V 5.15 California Fire Code, Section 907: Fire Alarm and Detection Systems (add a subsection to read): 907.10 False Alarms

907.10 FALSE ALARMS. When any fire alarm system sounds an audible alarm or transmits an alarm to a remote location causing an emergency response by a fire district, when no emergency exists, for three or more times in any six month period, the owner, tenant, or lessee of the premises may be billed for the cost of the response in accordance with a fee that may be established by Resolution of said Fire District.

Sec. L-V 5.16 Permits for Burning Operations

Residential open burning, consisting of burning materials originating from one or more single or multiple family dwellings on a premises, including incinerator use, is allowed subject to the provisions of this Code as adopted by Nevada County:

- a. Without a permit only during that period when fire danger is determined to be low enough as established from year-to-year by a proclamation of the local California Department of Forestry and Fire Protection (CAL FIRE) Director that burning is not prohibited and burn permits are not needed;
- b. With a permit issued by CAL FIRE only during that period between open burn and no-burn periods when conditions are appropriate as established from year-to-year by CAL FIRE or its designated agency by a proclamation that burning is not prohibited, but is allowed subject to a permit.

Notwithstanding the foregoing, there shall be no open burning, and no permits may be issued for burning, on days or at times determined to be unsafe by CAL FIRE, or unhealthy by the Northern Sierra Air Quality Management District (NSAQMD) or for open burning in violation of Section 1102.3.

Sec. L-V 5.17 Incinerators, Open Burning and Commercial Barbecue Pits Additional Enforcement Authorized

The Northern Sierra Air Quality Management District and its duly authorized agents are hereby declared to be code enforcement officers of this County for the purpose and with

the right of enforcing the provisions of all subsections of this section, including, without limitation, the same authority as the chief to require discontinuance of burning.

Sec. L-V 5.18 Construction

Freestanding incinerators shall be constructed of bricks, concrete, hollow tile, heavy gauge metal or other approved non-combustible material. Incinerators shall be equipped and maintained with a spark arrest constructed of iron, heavy wire mesh, or other non-combustible material with openings not larger than 1/4-inch.

Sec. L-V 5.19 Fire-Extinguishing Equipment; and Supervision of Incinerator Burning Operations

FIRE-EXTINGUISHING EQUIPMENT. A garden hose connected to an adequate water supply or other approved fire extinguishing equipment shall be available for use when incinerators are in operation.

SUPERVISION OF INCINERATOR BURNING OPERATIONS. When burn permits are required, incinerators, while in use, shall be constantly attended by a person knowledgeable in the use of fire extinguishing equipment required by Sec. L-V 5.20 and familiar with permit limitations that restrict the use of incinerators. An attendant shall supervise the burning material until the fire has been extinguished.

Sec. L-V 5.20 Open Burning

GENERAL. Open burning shall be conducted in accordance with Section 307. Open burning shall also be conducted in accord with requirements of other governing agencies regulating emissions

EXCEPTION: Recreational fires shall be in accordance with California Fire Code Section 307.4.2

NOTIFICATION. Prior to commencement of open burning, the resident must ensure that it is a permissive burn day.

MATERIAL RESTRICTIONS. Material to be burned must be properly dried and all open burning be conducted in a manner to minimize smoke and promote quick and complete combustion. Open burning of rubbish containing paper products is prohibited, as is open burning of garbage generally, cloth, plastics, petroleum products, metal, material soiled by food or fecal matter, animals or animal parts, or any similar smoke producing materials. No person shall use open outdoor fires for the purpose of disposal, processing or burning of any flammable combustible material, including, but not limited to, treated wood, tires, tar, plastics, petroleum wastes, demolition debris, garbage, offal, carcasses of dead animals or salvage of metals. All residential burning of leaves and pine needles shall utilize efficient burn management techniques and in Western Nevada County (as defined in Sec. G-IV 14.A.2 of the Nevada County General Code) shall be restricted to burning where the leaves or pine needles are dry and attached to branches or make up no more than twenty percent (20%) by volume of any burn pile.

TIME AND ATMOSPHERIC RESTRICTIONS. Open burning shall only be performed when time and atmospheric conditions comply with the limits set forth in the open-burning permit or on a permissive burn day as determined by the Northern Sierra Air Quality Management District.

307.4 LOCATION: Open burning shall not be conducted within fifty (50) feet (15.25 meters) of any structure.

EXCEPTION: Clearance from structures is allowed to be reduced as follows:

1. Not less than fifteen (15) feet (4.5 meters) when burning is conducted in an approved burning appliance.
2. Not less than twenty-five (25) feet (7.6 meters) when the pile size is three (3) feet (one (1) meter) or less in diameter and two (2) feet (0.6 meters) or less in height.

FIRE-EXTINGUISHING EQUIPMENT. A garden hose connected to a water supply or other approved fire-extinguishing equipment shall be readily available for use at open-burning sites.

SUPERVISION OF OPEN BURNING OPERATIONS. Burning material shall be constantly attended by an adult person knowledgeable in the use of fire extinguishing equipment required by Section 307.5 and familiar with permit limitations that restrict open burning. An attendant shall supervise the burning material until the fire has been extinguished.

DISCONTINUANCE. The chief or a duly authorized agent of the Northern Sierra Air Quality Management District is authorized to require that open burning be immediately discontinued if the chief or agent determines that smoke emissions are offensive to occupants of surrounding property or if the open burning is determined by the chief or agent to constitute a hazardous condition.

Sec. L-V 5.21 California Fire Code, Section 5706.2.4.4: Location Where Above-Ground Tanks are Prohibited (add exceptions):

EXCEPTIONS:

1. Storage in conjunction with construction projects complying with Section 5706.2 of this article for which the Chief has issued a permit.
2. Tanks used for agricultural purposes complying with Section 5706.2. where the need for on-site fuel is necessary for continued operations, and for which a permit has been issued by the Chief.
3. Existing installations where the Chief has issued a permit for continued use.

4. Service stations, repair garages, oil change facilities and commercial operations which accept the return of used crankcase oil, may be permitted to have one aboveground storage tank of up to a five hundred (500) gallon capacity for the purpose of storing used crankcase oil. Section 2311.2

Sec. L-V 5.22 California Fire Code, Section 3803.1: Installation of Equipment (add a paragraph to read):

Above 4,000 feet elevation above sea level, a site plan that includes a liquefied petroleum gas tank shall be approved by the Fire Marshal of the affected Fire District or Fire Authority before issuance of any building permit therefore.

Sec. L-V 5.23 Appendix B: Fire-Flow Requirements for Buildings (add a section to read as follows): BB106 Automatic Fire Alarm System

BB106 AUTOMATIC FIRE ALARM SYSTEM. Any structure with a required fire flow of 1,500 to 1,999 gallons per minute, shall have installed throughout an approved fully-supervised automatic smoke and/or heat detection fire alarm system in the following categories:

1. New buildings;
2. Existing buildings with new construction exceeding 50% of the gross floor area.

EXCEPTIONS:

1. Single-family dwellings and related accessory outbuildings.
2. Buildings that have an automatic fire sprinkler system installed throughout the building.

Sec. L-V 5.24 Appendix B: Fire-Flow Requirements for Buildings (add a section to read as follows): B108 Automatic Fire Sprinkler System

B108 AUTOMATIC FIRE SPRINKLER SYSTEM. Any structure with a required fire flow of 2,000 gallons per minute or more shall have installed throughout, an approved fully-supervised automatic fire sprinkler system in the following categories:

1. New buildings;
2. Existing buildings with new construction exceeding 50% of the gross floor area.

EXCEPTIONS:

1. Single-family dwellings and related accessory outbuildings.

Sec. L-V 5.25 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C106 Location of Dry Hydrants

C106 LOCATION OF DRY HYDRANTS

C106.1 DRY HYDRANT LOCATION. The dry hydrant shall be readily accessible by fire apparatus and shall be located not more than 1,000 feet from the parcel to be served and not less than fifty (50) feet from any structure to be served by the system.

C106.1.1 ADJACENT TO ROADWAY. The dry hydrant shall be located within ten (10) feet of the driveway or other approved access roadway.

C106.1.2 SERVING SINGLE STRUCTURE. If the dry hydrant is located along the driveway serving a single structure, or along the primary access roadway serving multiple structures, the connection shall be located in such a manner that fire apparatus can utilize the hydrant without obstructing the access roadway.

C106.2 TURNOUT CONSTRUCTION. An approved turnout, consisting of a 10-foot wide driving surface for a distance of 25 feet plus a 25-foot taper on either end (total length of 75 feet), shall be provided when the dry hydrant is placed adjacent to a single lane access roadway or where fire apparatus using the hydrant would obstruct the access roadway.

C106.3 VEGETATION CLEARANCE. All flammable vegetation within 10 feet of the dry hydrant shall be removed.

Sec. L-V 5.26 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C107 Installation of Dry Hydrants

C107 INSTALLATION OF DRY HYDRANTS

C107.1 DRY HYDRANT SUPPLY PIPING. Pipe supplying the dry hydrant shall be not less than 4 inches in diameter.

C107.1.1 PVC PIPING. If PVC piping is used, the piping shall be Schedule 40, or better.

C107.2 ULTRAVIOLET PROTECTION. Exposed PVC piping shall be primed and painted with epoxy paint, or otherwise protected from damage that could be caused by exposure to sunlight, in an approved manner.

C107.3 CORROSION PROTECTION. If galvanized steel piping is used, piping that is in contact with the soil shall be wrapped with 2 layers of Mil Tape or otherwise protected from corrosion in an approved manner.

Sec. L-V 5.27 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C108 Dry hydrant connection

C108 DRY HYDRANT CONNECTION

C108.1 SIZE AND THREADS. The connection for the dry hydrant shall consist of a 4-1/2 inch threaded male fitting with National Standard Threads. The connection shall be

provided with an approved cap to protect the threads and to protect the water supply from contamination.

C108.2 HEIGHT. The connection for the dry hydrant shall be located between 18 inches and 36 inches above the finished grade.

C108.3 SUPPORT BRACE. If PVC piping is used for the dry hydrant, an approved brace or support shall be provided to support the connection.

Sec. L-V 5.28 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C109 Freeze Protection

C109 FREEZE PROTECTION

C109.1 CONTROL VALVE. If the dry hydrant connection is located lower than the water source, such as a storage tank, an approved valve at the base of the dry hydrant shall be provided to control the water flow.

C109.2 DRAINAGE. Provisions shall be made to drain any standing water from the piping above the valve.

C109.3 EXPOSED PIPING. Any exposed piping that contains water shall be protected from freezing in an approved manner.

Sec. L-V 5.29 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C110 Venting of Closed Containers

C110 VENTING OF CLOSED CONTAINERS

C110.1 TANK VENTING. Closed storage tanks shall be vented in an approved manner.

C110.1.1 SIZE. Vent piping shall be equal to, or larger than, the size of the piping serving the dry hydrant.

C110.1.2 PROTECTION. The vent opening shall be screened with an approved material to prevent obstruction of the vent or contamination of the water supply.

Sec. L-V 5.30 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C111 Lakes, Reservoirs, and Ponds

C111 LAKES, RESERVOIRS, AND PONDS

C111.1 OPEN WATER SOURCES. When the water supply consists of an open water source such as a lake, reservoir, or pond, the following shall apply:

1. If the distance between the water source and the dry hydrant is greater than 100 feet, a minimum 6-inch piping shall be used to supply the dry hydrant.

2. The piping between the base of the dry hydrant and the water source shall be buried at least 3 feet below the finished grade.
3. The end of the piping located in the water source shall be located a minimum of 2 feet above the bottom surface of the water source and a minimum of 2 feet below the lowest recorded level of the top surface of the water source.
4. The end of the piping located in the water source shall be fitted with a commercially manufactured dry hydrant strainer, a hand-made strainer consisting of a capped section of pipe with 1000 holes that are 5/16 inch in diameter drilled along the length, or equal.
5. The distance between the lowest recorded level of the water surface and the connection for the dry hydrant shall not exceed 10 vertical feet.

Sec. L-V 5.31 Appendix C: Fire Hydrant Location and Distribution (add a section to read as follows): C112 Water Supply Signage

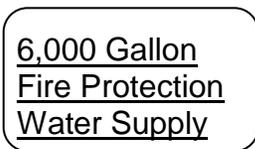
C112 WATER SUPPLY SIGNAGE

C112.1 SIGNS. Approved signs indicating the size, location, and access travel route to a fire protection water storage facility shall be provided in such a manner that all pertinent information relating to the facility is clearly identified.

C112.1.1 MOUNTING AND SIZE. All signs shall be mounted on noncombustible posts, shall be a minimum of 18" by 24" in size, and shall be a minimum of 0.080 gauge metal.

C112.1.2 BACKGROUND AND LETTERING. The sign(s) shall have a reflective blue background with a minimum of 3" high reflective lettering that sharply contrasts with the background.

C112.2 FIXED WATER SUPPLY. If the water supply consists of a fixed amount, such as an underground or aboveground storage tank, the sign shall be located on or adjacent to the facility. The sign shall be clearly visible and legible from the access roadway serving the facility. The lettering on the sign shall be arranged as shown in the following example:



C112.3 ACCESS ROUTE. If the water storage facility consists of a reservoir, pond, or similar facility, at least one sign shall be provided at the intersection of the primary access roadway serving the area and the access roadway serving the water storage facility. This sign shall be located in such a manner that it is clearly visible and legible from the primary access roadway serving the area. Additional signs shall be provided along the access roadway serving the water storage facility if the route of travel is not easily recognized. The lettering on the sign shall be arranged as shown in the following example:

Access to
Fire Protection
Water Supply

Sec. L-V 5.32 Appendix D, Section D101: General (add a paragraph to read as follows):

The Jurisdiction having authority may allow alternative minimum standards as promulgated by the California Public Resources Code 4290.

CHAPTER V: BUILDINGS

Article 6. Permit Fees

Sec. L-V 6.1 Waiver of Fees; Declaration of Emergency

CHAPTER V: BUILDINGS

Article 6. Permit Fees

Sec. L-V 6.1 Waiver of Fees; Declaration of Emergency

- A. The provisions of this Section shall be retroactive to and effective as of August 8, 1994.
- B. Building permit fees shall be waived for the reconstruction of any building or improvement which is damaged or destroyed during a disaster for which the Board of Supervisors adopts a Resolution containing a declaration of emergency. The waiver of the building permit fees shall apply only as to the owner of any property at the time of the disaster. The waiver shall be effective for the rebuilding on the site damaged or destroyed by the disaster or, if the property owner suffering the loss so chooses, at such other site in the unincorporated territory of the County as the property owner selects for the reconstruction of his or her residence.
- C. The waiver of fees shall apply only for the original term (life) of the building permit and any renewal or transfer thereof shall be accompanied by the customary fees as established by the County.
- D. The waiver of fees shall be allowed only if (1) within one year from the date of the declaration of emergency, the property owner files for a building permit to reconstruct a home or other structure, and (2) executes a certification that the property owner qualifies for a waiver of fees under the provisions of this Section in the form as approved by the County Counsel's Office.
- E. As used in this Section, "building permit fees" or "permit fees" include all County assessed fees relating to the reconstruction of a home or other structure including all Planning, Environmental Health, Department of Transportation, Landfill and Building Department fees. "Reconstruction" means the repair or replacement of a damaged or destroyed structure which was originally lawfully erected, not exceeding the total square footage (area) of the previously existing structure and includes, but is not limited to, damage to any electrical, mechanical, sewer or septic system or any similar system. If the property owner requests permits to build a larger home or structure than previously was lawfully erected, the building permit fees and all mitigation and development fees shall be assessed based upon the net increase in gross building area.
- F. Except as otherwise provided in this Section, no road development fees, fire mitigation fees, school mitigation fees or any other mitigation fees of any type shall be assessed or collected by the County as a condition to the issuance of any building permit for the reconstruction of any property damaged or destroyed by a disaster for which there has been a declaration of emergency.
- G. Whenever a Resolution containing a declaration of emergency is presented to the Board of Supervisors, the County Executive Officer shall include an estimate of the

number of structures that were damaged by the disaster. Whenever the Board of Supervisors adopts a declaration of emergency which triggers the waiver of fees in accordance with the provisions of this Section, each fee department shall keep adequate records reflecting the amount of unfunded service that is provided pursuant to the waiver of fees which deficit should be made up by a transfer from the County's contingency fund.

CHAPTER V: BUILDINGS

Article 7. California Plumbing Code Amendments

- Sec. L-V 7.1 Appendix Chapters Adopted
- Sec. L-V 7.2 Division II Administration, Section 104.5 Fees (change to read)
- Sec. L-V 7.3 Division II Administration, Section 104.3.2 Plan Review Fees (change to read)
- Sec. L-V 7.4 Division II Administration, Section 104.3.3 Time Limitation of Application (change to read)
- Sec. L-V 7.5 Division II Administration, Section 104.4.3 Expiration (change to read)
- Sec. L-V 7.6 Division II Administration, Section 104.5.1 Work Commencing Before Permit Issuance (change to read)
- Sec. L-V 7.7 Division II Administration, Section 107.0 Board of Appeals (change to read)
- Sec. L-V 7.8 Section 312.0: Protection of Piping, Materials, and Structures (add text to read)
- Sec. L-V 7.9 Section 606.0: Valves (add a subsection to read): Section 606.9 Water Supply Valve Freeze Protection
- Sec. L-V 7.10 Section 609.1: Installation (add text to read)
- Sec. L-V 7.11 Section 721.0: Location (change to read)
- Sec. L-V 7.12 Section 906.7: Vent Termination: Frost or Snow Closure (change to read)
- Sec. L-V 7.13 Section 1212.10 Liquefied Petroleum Gas Facilities and Piping (add the following subsection and text)

CHAPTER V: BUILDINGS

Article 7. California Plumbing Code Amendments

The California Plumbing Code as adopted by Section L-V 1.4 is adopted with the following amendments:

Sec. L-V 7.1 California Plumbing Code (Adopt the following Appendix Chapters from the 2016 California Plumbing Code): Appendix A, B, D, G and I.

Sec. L-V 7.2 Division II Administration Section 104.5: Fees (change to read):

Fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 7.3 Division II Administration Section 104.3.2: Plan Review Fees (change to read):

Plan review fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 7.4 Division II Administration, Section 104.3.3 Time Limitation of Application (change to read)

Refer to L-V 2.6, Section 105.3.2.

Sec. L-V 7.5 Division II Administration, Section 104.4.3 Expiration (change to read)

Refer to L-V 2.7, Section 105.5.

Sec. L-V 7.6 Division II Administration, Section 104.5.1 Work Commencing Before Permit Issuance (change to read)

Refer to L-V 2.9, Section 109.4.

Sec. L-V 7.7 Division II Administration, Section 107.0 Board of Appeals (change to read)

Refer to L-V 2.1, Section 113.

Sec. L-V 7.8 Section 312.0: Protection of Piping, Materials, and Structures (add text to read):

Above 4,000 feet elevation above sea level, when structural conditions necessitate installation of water piping in exterior walls or above ceilings of buildings, the pipes shall

be installed to the inside edge of the wall or ceiling framing and insulated, on the unheated side of the pipes, with at least R-19 insulation or equivalent.

Above 4,000 feet elevation above sea level all cold water piping shall be graded back to the water service. Hot water lines shall be sloped to a bleeder valve or valves that are readily accessible. Gravity drains or other approved devices may be used to satisfy this requirement. No part of such water lines shall be trapped.

Sec. L-V 7.9 Section 606.0: Valves (add a subsection to read): Section 605.9
Water Supply Valve Freeze Protection

Section 605.9 WATER SUPPLY VALVE FREEZE PROTECTION. Above 4,000 feet elevation above sea level the building water service line shall be equipped with a "stop and drain" valve located where the line daylights out of the ground within the building footprint. The drain port of the valve shall be protected from blockage by the use of a sleeve or box over the valve. The valve shall be protected from freezing with insulation material and fitted with a handle that is readily accessible.

Sec. L-V 7.10 Section 609.1: Installation (add text to read):

Above 4,000 feet elevation above sea level water supply yard piping shall be protected from freezing by a minimum of 36 inches of earth covering and shall be extended to within the building footprint before daylighting out of the ground.

Sec. L-V 7.11 Section 721.0: Location (change to read):

- A. No building sewer or private sewage disposal system or part thereof shall be located in any lot other than the lot which is the site of the building or structure served by such sewer or private sewage disposal system or part thereof; nor shall any building sewer or private sewage disposal system or part thereof be located at any point having less than the minimum distances indicated in Table 7-7, except as provided in subsection B and C of this Section.
- B. Nothing contained in this code shall be construed to prohibit the use of all or part of an abutting or a separate lot to:
 - 1. Provide access to connect a building sewer to an available public sewer when proper cause and legal easement not in violation of other requirements has first been established to the satisfaction of the County Environmental Health Department.
 - 2. Provide additional space for a building sewer or a private sewage disposal system or part thereof, when proper cause and transfer of ownership, or change of boundary, or legal easement not in violation of other requirements has first been established to the satisfaction of the County. The instrument recording such action shall constitute an agreement with the County which shall clearly state and show that the

areas so joined or used shall be maintained as a unit during the time they are so used. Such an agreement shall be recorded in the office of the County Recorder as part of the conditions of ownership and use of said properties and shall be binding on all heirs, successors, and assigns of such properties. A copy of the instrument recording such proceedings shall be filed with the County Environmental Health Department.

- A. Nothing contained herein shall be construed to prohibit a private sewer line from crossing a public street providing, however, that such use of the public street shall be authorized by an encroachment permit which shall expressly state thereon that it is subject to revocation by the County by giving five (5) days advance notice, and thereafter the encroachment shall be removed and the use of the property shall cease unless sewage disposal is authorized in some other manner as approved by law. Any such encroachment permit shall be recorded with the County Recorder as part of the agreement required hereinabove.

- D. Use of an unabutting lot for a private sewage disposal system may be allowed by the County Environmental Health Department only if all of the following conditions exist:
 - 1. Testing and observation as required by Chapter VI of the Nevada County Land Use and Development Code clearly reveal that the lot(s) from which sewage will be generated does not meet the standards for conventional, special design or alternative/advanced wastewater disposal as defined therein; and
 - 2. The applicant can demonstrate to the County Environmental Health Department that said lot would be unbuildable without utilization of an unabutting lot for sewage disposal; and
 - 3. Only one (1) public or private street, highway or right-of-way is to be crossed by the sewer line from the subject lot; and
 - 4. Only one (1) unabutting lot is to be crossed by the sewer line from the subject lot; and
 - 5. The building or site to be served is no more than five hundred (500) feet from the unabutting lot where sewage disposal is proposed; and
 - 6. Compliance with Article 3, Chapter VI of the Nevada County Land Use and Development Code is ascertained, if appropriate; and
 - 7. The parcels under consideration were created prior to the effective date of 11/05/96.

- E. Lots where sewage is to be generated and/or where sewage disposal is proposed that abut to each other or each to another shall be exempt from the requirements

in subsection C above provided the proposed sewage collection, treatment and disposal system meets all other requirements of Chapter VI of the Nevada County Land Use and Development Code and the California Plumbing Code.

Sec. L-V 7.12 Section 906.7: Vent Termination: Frost or Snow Closure (change to read):

Above 4,000 feet elevation above sea level all vent terminals shall be protected from closure and sliding snow and ice by the use of formed metal crickets. The metal crickets shall have a minimum vertical height (at the apex) at least one-half of the required vertical height of the vent extension above the roof. In no case shall the cricket measure less than 8 inches at the apex. The cricket and flashing shall be secured to the roof framing and sheathing to withstand the shear loads anticipated. Combined flashing and cricket units may be used. Vent pipes shall extend through their flashings and be tightly sealed at the point of penetration so as to prevent the return of sewer gases into the structure.

EXCEPTION: Vent terminals which are made within 36 inches of the ridge or on roofs having a pitch of 2 in 12 or flatter shall not be required to have crickets.

Sec. L-V 7.13 Section 1212.10 Liquefied Petroleum Gas Facilities and Piping (add the following subsection and text)

The subsection shall apply to all new liquefied petroleum gas (LPG) installations and to existing installations when LPG service is reconnected after service is interrupted that are above 4,000 foot elevation.

- A. Two stage regulator/systems shall be installed on all LPG installations with approved steel or PE piping, installed in accordance with the California Plumbing Code and manufactures installation instructions and specifications.
- B. The first stage regulator shall be installed under the hinged gauge cover supplied with the tank. The atmospheric pressure aperture of the regulator shall be pointed downward. The first stage regulator shall be plumbed to the riser of the yard piping with soft copper tubing or schedule 40 steel pipe with two 90 degree elbow swing joints (one at the top and one below grade) to allow flexibility should tank shifting occur. The riser from the yard piping shall be located not more than three (3) inches (horizontally) from the walls of the tank. The propane tank shall be placed on reinforced concrete supports and securely attached thereto.
- C. The second stage regulator and riser pipe shall be installed on the gable end of the building at least 20 feet from or out of the direct line of discharge of adjacent shedding roofs. The riser shall have swing joints below grade and be 1.5 - 3.5 inches from the wall surface and securely supported/braced to the wall approximately ten inches below the regulator so as to prevent bending of the pipe by lateral snow/ice loads. Second stage regulators installed on the front of a garage shall be protected by a bollard in conformance with the California Fire Code.

Exception 1: On round, octagon or similarly-shaped structures (without gable ends) the riser may be located under the eaves when approved by the Building Official.

Exception 2: On existing services that are reconnected after service is interrupted, where relocation of the riser is not possible due to structural or topographical constraints the riser may be located under the eave with the approval of the Building Official.

- D. A protective cover, engineered for the snow load of the area, shall be installed over the second stage regulator and securely supported to the ground or diagonally to the building wall. When supported to the ground, the footing for the supports shall be founded 18 inches below finished grade and the supporting posts shall be securely fastened to the footing and the cover to prevent dislocation of the supports. When supported diagonally to the wall, the supports shall extend from the drip edge of the cover back to the wall. The angle formed by the supports and the wall shall not exceed 45 degrees from vertical. Existing decks that are used to cover the second stage regulator shall be designed for the snow load.
- E. The riser pipes for the yard piping shall not be imbedded in concrete. Concrete placed around such riser shall be held back at least one (1) inch from all sides of the pipe.
- F. Location of the shutoff valve at the LPG tank shall be permanently marked by the use of a color-coded snow stake identifying the gas supplier. This stake shall be placed direction adjacent to the tank at the center line of the valve cover and on all sides opposite the yard piping riser. Such stake shall be sufficient height to be visible through anticipated maximum snow depth at the respective location. Installation and maintenance of this snow stake is the responsibility of the LPG user. An LPG shutoff valve shall also be installed at the house under the regulator cover. This valve shall be identified by a placard on the wall directly over the regulator cover and above the anticipated depth of snow.

CHAPTER V: BUILDINGS

Article 8. California Mechanical Code Amendments

Sec. L-V 8.1	Appendix Chapters Adopted
Sec. L-V 8.2	Division II Administration, Section 107.0: Board of Appeals, General (change to read)
Sec. L-V 8.3	Division II Administration Section 104.5: Fees (change to read)
Sec. L-V 8.4	Division II Administration Section 104.3.2: Plan Review Fees (change to read)
Sec. L-V 8.5	Division II Administration, Section 104.3.3 Time Limitation of Application (change to read)
Sec. L-V 8.6	Division II Administration, Section 104.4.3 Expiration (change to read)
Sec. L-V 8.7	Division II Administration, Section 104.5.1 Work Commencing Before Permit Issuance (change to read)
Sec. L-V 8.8	Section 303.7: Liquefied Petroleum Gas Facilities, Section 303.7.2 Liquefied Petroleum Gas Appliances: (add the following text)
Sec. L-V 8.9	Section 802.2.4: Direct Vent Appliances: (add the following text)
Sec. L-V 8.10	Section 802.3.3.5 Exit Terminals (add the following)
Sec. L-V 8.11	Section 802.6.2 Gas Vents, Termination Requirements: (add the following text)

CHAPTER V: BUILDINGS

Article 8. California Mechanical Code Amendments

The California Mechanical Code as adopted by Section L-V 1.4 is adopted with the following amendments:

Sec. L-V 8.1 California Mechanical Code (Adopt the following Appendix Chapters from the 2016 California Mechanical Code): Appendix B and Appendix C.

Sec. L-V 8.2 Division II Administration Section: 107.0 Board of Appeals, General (change to read):

Appeals resulting from decisions or determinations made by the Building Official relative to the application and interpretation of this code shall be heard by the Building and Accessibility Standards Board of Appeals as set forth in Section L-V 2.2 of the Nevada County Land Use and Development Code.

Sec. L-V 8.3 Division II Administration Section 104.5: Fees (change to read):

Fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 8.4 Division II Administration Section 104.3.2: Plan Review Fees (change to read):

Plan review fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 8.5 Division II Administration, Section 104.3.3 Time Limitation of Application (change to read)

Refer to L-V 2.6, Section 105.3.2.

Sec. L-V 8.6 Division II Administration, Section 104.4.3 Expiration (change to read)

Refer to L-V 2.7, Section 105.5.

Sec. L-V 8.7 Division II Administration, Section 104.5.1 Work Commencing Before Permit Issuance (change to read)

Refer to L-V 2.9, Section 109.4.

Sec. L-V 8.8 Section 303.7: Liquefied Petroleum Gas Facilities (add the following text): Section 303.7.2 Liquefied Petroleum Gas Appliances:

A 3-inch gravity drain shall be provided at the low point of the space, installed so as to provide 1/4-inch per foot grade and terminate at an exterior point of the building protected from blockage. The opening shall be screened with a corrosion-resistant wire mesh with mesh openings of 1/4-inch in dimension. Lengths of the gravity drains over 10 feet in length shall be first approved by the Building Official.

Sec. L-V 8.9 Section 802.2.4: Direct-Vent Appliances (add the following):

Vent terminals of direct-vent appliances shall terminate above the anticipated snow depth.

Direct vent appliance terminations shall not be located under decks which could be sealed off around the perimeter with snow accumulation.

Above 4,000 feet elevation above sea level all direct vent terminations shall be protected from closure and sliding snow and ice by the use of formed metal crickets. The metal crickets shall have a minimum vertical height (at the apex) at least one-half of the required vertical height of the vent extension above the roof. In no case shall the cricket measure less than 8 inches at the apex. The cricket and flashing shall be secured to the roof framing and sheathing to withstand the shear loads anticipated. Combined flashing and cricket units may be used. Vent pipes shall extend through their flashings and be tightly sealed at the point of penetration so as to prevent the return of sewer gases into the structure. All appliance vents, flues and chimneys shall be strapped to the cricket near its apex with a galvanized steel strap with a minimum thickness of 16 gauge.

EXCEPTION: Vent terminations which are made within 36 inches of the ridge or on roofs having a pitch of 2 in 12 or flatter shall not be required to have crickets.

Sec. L-V 8.10 Section 802.3.3.5 Exit Terminals (add the following)

Exit terminals and combustion air intakes shall not be located under decks which could be sealed off around the perimeter with snow accumulation.

Above 4,000 feet elevation above sea level all vent exit terminals shall be protected from closure and sliding snow and ice by the use of formed metal crickets. The metal crickets shall have a minimum vertical height (at the apex) at least one-half of the required vertical height of the vent extension above the roof. In no case shall the cricket measure less than 8 inches at the apex. The cricket and flashing shall be secured to the roof framing and sheathing to withstand the shear loads anticipated. Combined flashing and cricket units may be used. Vent pipes shall extend through their flashings and be tightly sealed at the point of penetration so as to prevent the return of sewer gases into the structure. All appliance vents, flues and chimneys shall be strapped to the cricket near its apex with a galvanized steel strap with a minimum thickness of 16 gauge.

EXCEPTION: Exit terminals which are made within 36 inches of the ridge or on roofs having a pitch of 2 in 12 or flatter shall not be required to have crickets.

Sec. L-V 8.11 Section 802.6.2 Gas Vents, Termination Requirements: (add the following)

Gas Vents shall terminate above the anticipated snow depth.

Gas vent terminations shall not be located under decks which could be sealed off around the perimeter with snow accumulation.

Above 4,000 feet elevation above sea level all gas vent terminations shall be protected from closure and sliding snow and ice by the use of formed metal crickets. The metal crickets shall have a minimum vertical height (at the apex) at least one-half of the required vertical height of the vent extension above the roof. In no case shall the cricket measure less than 8 inches at the apex. The cricket and flashing shall be secured to the roof framing and sheathing to withstand the shear loads anticipated. Combined flashing and cricket units may be used. Vent pipes shall extend through their flashings and be tightly sealed at the point of penetration so as to prevent the return of sewer gases into the structure. All appliance vents, flues and chimneys shall be strapped to the cricket near its apex with a galvanized steel strap with a minimum thickness of 16 gauge.

EXCEPTION: Gas vent terminations which are made within 36 inches of the ridge or on roofs having a pitch of 2 in 12 or flatter shall not be required to have crickets.

CHAPTER V: BUILDINGS

Article 9. International Swimming Pool and Spa Code Amendments

- Sec. L-V 11.1 Division II Administration, Section 105.4 Time Limitation of Application (change to read)
- Sec. L-V 11.2 Division II Administration, Section 105.5.3 Expiration (change to read)
- Sec. L-V 11.3 Division II Administration, Section 105.6.1 Work Commencing Before Permit Issuance (change to read)
- Sec. L-V 11.4 Section 105.6 Fees & Section 105.6.2 Fee Schedule: (change to read)
- Sec. L-V 11.5 Section 108 Means of Appeal: (change to read)

CHAPTER V: BUILDINGS

Article 9. International Swimming Pool and Spa Code Amendments

The International Swimming Pool and Spa Code as adopted by Section L-V 1.4 is adopted with the following amendments:

Sec. L-V 11.1 Division II Administration, Section 105.4 Time Limitation of Application (change to read)

Refer to L-V 2.6, Section 105.3.2.

Sec. L-V 11.2 Division II Administration, Section 105.5.3 Expiration (change to read)

Refer to L-V 2.7, Section 105.5.

Sec. L-V 11.3 Division II Administration, Section 105.6.1 Work Commencing Before Permit Issuance (change to read)

Refer to L-V 2.9, Section 109.4.

Sec. L-V 11.4 Section 105.6 Fees & Section 105.6.2 Fee Schedule: (change to read):

Permit and plan review fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 11.5 Section 108 Means of Appeal: (change to read)

Appeals resulting from decisions or determinations made by the Building Official relative to the application and interpretation of this Code shall be heard by the Building and Accessibility Standards Board of Appeals as set forth in Section L-V 2.2 of the Nevada County Land Use and Development Code.

CHAPTER V: BUILDINGS

Article 10. Limited Density Owner-Built Rural Dwellings

REPEALED

CHAPTER V: BUILDINGS

Article 11. Landform Grading for Agriculture

- Sec. L-V 11.1 Intent
- Sec. L-V 11.2 Applicability
- Sec. L-V 11.3 Criteria
- Sec. L-V 11.4 Procedure
- Sec. L-V 11.5 Fees
- Sec. L-V 11.6 Appeals

CHAPTER V: BUILDINGS

Article 11: Landform Grading for Agriculture

Sec. L-V 11.1 Intent

In adopting this Article, it is the intent of the Board of Supervisors to adopt, in addition to the exemption for cultivation of land to raise crops, a more comprehensive exemption from grading permit requirements for other clearing and grading of land for agricultural operations, subject to criteria and procedures to avoid abuse. The purpose of this Article is to promote long-term viable agricultural use of agricultural lands while protecting natural resources and to provide reasonable minimum standards that will prevent man-induced land failures while controlling erosion, drainage and sediment discharge.

Sec. L-V 11.2 Applicability

Clearing and grading of land for agricultural operations may be exempted from grading permit requirements by the Building Department upon verification that a bona fide agricultural project is involved and a permit exemption has been recommended by the Agricultural Commissioner. An exemption under this section shall only be approved upon: 1) written verification by the landowner, which shall be deemed to be binding upon the landowner and any successors in interest; and 2) the permit-exempted lands shall be used for agricultural operations for a period of at least five (5) years following the granting of the exemption, provided all of the criteria established in this Article are met and there is full compliance with all of the procedures set forth in this Article 11.

Sec. L-V 11.3 Criteria

To qualify as other clearing and grading of land for agricultural operations that may be exempted from grading permit requirements pursuant to this Article, all of the following criteria must be met:

1. The land to be cleared and/or graded is zoned for agricultural use as:
 - a. "AG" (General Agriculture), or
 - b. "AE" (Agricultural Exclusive), or
 - c. "RA" (Residential Agriculture) where the parcel is 3 acres or more in size and the General Plan designation is Rural;
2. The clearing and/or grading is exclusively for agricultural purposes not associated with buildings that require a building permit;

3. Any vegetation removal or soil disturbance is outside any floodplain, watercourse, wetland or riparian area and any non-disturbance buffer for those areas as defined in Section L-II 4.3;
4. The work occurs on slopes of thirty percent (30%) or less;
5. The work does not disturb cultural resources;
6. Any excavated material remains on site, without changing the natural terrain or drainage and without creating any cuts or fills, except as follows:
 - a. The work, if associated with construction or maintenance of a pond for livestock raised on site, aquaculture or irrigation, does not create a dam that exceeds two feet in height above grade, an excavation in excess of six feet or a storage capacity of more than ten acre feet and results in no adverse hydrological impacts upon surrounding properties that are not mitigated to a level of insignificance, or
 - b. The work, if associated with construction of a farm or ranch road, is solely for the purpose of providing on-site access to water supplies, storage areas, grazing/crop lands or fence lines, does not service a structure requiring a building permit, and does not create a cut or fill greater than two feet in height;
7. Projects potentially impacting heritage oak groves or trees, as defined in LUDC Section L-II 4.3.15.B, and verified by a field inspection conducted by the Agricultural Commissioner or his/her agent, shall provide a management plan as defined in LUDC Section L-II 4.3.3.C Resource Standards. A Management Plan to mitigate the impacts of the proposed project on landmark trees or groves shall be required." An Agricultural Grading Exemption shall be denied to parcels or sites where these resources exist and no mitigation and/or avoidance is available through the Management Plan process.
8. To the extent possible, all work will be conducted between April 15th and October 15th to avoid the rainy season. Any work before April 15th or after October 15th of any year shall be permitted only if disclosed in the application and approved in the Permit Exemption. To secure such approval, the applicant shall submit an erosion and sediment control plan, including an effective re-vegetation program to stabilize all disturbed areas, expressly approved in writing by a State Certified Professional Erosion and Sediment Control (CPESC). If grading occurs, or if the land is left open and unplanted during the period from October 15th to April 15th, all projects over 2,500 square feet on slopes over 15% in areas of moderate to high erosion potential as defined by the Soil Survey of Nevada County, shall have an Erosion and Sediment Control Plan expressly approved in writing by the State Certified Professional Erosion and Sediment Control (CPESC) and shall be implemented after October 15th, and maintained through April 15th.

9. Projects shall be in compliance with the RWQCB regarding Clean Water Act requirements, and all other applicable laws.
10. The following conditions of approval shall be applied to all projects approved through this agricultural grading exemption:
 - a. The applicant shall be responsible for ensuring that all adequate dust control measures are implemented in a timely manner during all phases of the proposed project.
 - b. Fugitive dust emissions resulting from site clearing shall be minimized at all times, utilizing control measures including dust palliatives, regularly applied water, graveled or paved roads, etc. Control measures shall be noted on grading plans.
 - c. All land clearing, grading, earth moving, or excavation activities on a project shall be suspended to prevent excessive windblown dust when winds are expected to exceed 20 mph.
11. Verification of NSAQMD clearance shall be filed with the Agricultural Commissioner prior to any surface disturbance (including clearing and grubbing) associated with agricultural (or other) road construction in any of the sections listed in the table. Mapping of areas of ultramafic rock/serpentine occurrence within the project area shall be on file at the Agricultural Commissioner's office. In addition, if naturally occurring ultramafic rock/serpentine is discovered once grading for a road commences, the NSAQMD must be notified no later than the next business day and requirements in CCR, Title 17, Section 93105 must be implemented within 24 hours.

Sections Mapped as Containing Ultramafic Rock/Serpentine in Nevada County

Range _ East	Township _ North	Sections
6	14	23, 25, 26
7	14	1, 12, 13
8	14	4, 5, 6, 7, 8, 9, 16, 17, 18, 20, 21, 28, 29, 32
	15	29, 32, 33
	16	4, 5, 8, 9, 10, 11, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27
	17	29, 30, 31, 32
9	16	19, 30, 31
	18	13, 24
10	16	13, 24
	17	1, 2, 11, 12, 13, 14, 16, 17, 23, 24
	18	9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25, 26, 35, 36
11	16	5, 6, 7, 8, 17, 18, 19
	17	18, 19, 32
12	17	24, 25
13	17	19, 30

Sec. L-V 11.4 Procedure

- A. Exceptions pursuant to this Article must be applied for and a permit exemption may be granted hereunder only if each of the following procedures is fully complied with and completed in the order specified:
1. The applicant obtains, completes and submits to the Agriculture Commissioner:
 - a. an “Agricultural Clearing/Grading Permit Exemption Form” provided by the Building Department;
 - b. an Agricultural Project Plan acceptable in form and content to the Agricultural Commissioner; and
 - c. a binding commitment of five (5) years to continue use of the permit-exempted lands for agricultural operations acceptable in form and content to County Counsel.
 2. The Agriculture Commissioner reviews the submitted “Agricultural Clearing/Grading Permit Exemption Form and Agricultural Project Plan and, based upon field verification of the information therein, determines that the clearing or grading proposed is for a bona fide agricultural project and recommends approval of the requested exemption to the Building Department.

3. The Agricultural Commissioner shall review applications for positive occurrence of rare or threatened species. Applications within proximity to endangered, rare or threatened species as shown on the California Natural Diversity Database (CNDDDB) shall provide biologist report to verify if occurrence or absence of resource. Applications with State or Federally listed species shall require permit through jurisdictional agency (USFWS or CDFG) prior to issuance of an exemption.
 4. To verify potential riparian resources for applicants for the agricultural grading exemption, all applications submitted to the Agricultural Commissioner shall include a mapping of the parcel or parcels for which the application is made, a map showing all Lakes, Rivers, FEMA Flood Zone on a background map of the USGS topographic maps, as provided by the County of Nevada GIS system public mapping resources. Mapping shall be verified during field inspection by staff biologist for other wetland habitats.
 5. The Building Department reviews the application and considers the recommendation of the Agriculture Commissioner, determines that the proposed project meets all of the criteria and satisfies all of the procedures required for exemption, and approves the exemption request, notifying the applicant in writing of a favorable decision.
 6. Notification of granting of the Agricultural Grading Exemption by the Building Department shall include the following statement: "Any person involved in any form of ground disturbance is advised of the remote possibility of encountering subsurface cultural or historic resources. If such resources are encountered or suspected, all subsurface work within 200 feet of the potential cultural or historic discovery shall be halted immediately, and the Planning Department and a professional archaeologist shall be consulted who shall access any discoveries and develop appropriate management recommendations for archaeological resource treatment. If bones are found and appear to be human, California Law requires that the Nevada County Coroner and the Native American Heritage Commission be contacted. If Native American resources are involved, Native American Organizations and individuals recognized by the County shall be notified and consulted about any plans for treatment."
- B. Applications shall be processed by the Agriculture Commissioner within thirty (30) days of receipt of a complete application and by the Building Department within thirty (30) days of submittal to it of the approval by the Agriculture Commissioner.
- C. Any clearing or grading work done pursuant to a Permit Exemption shall be subject to a site inspection upon completion of the work or prior to October 15th of each year, whichever first occurs, by a CPESC to determine compliance with the project plan and erosion control and stabilization of the site.
- D. Permit Exemptions may be issued for up to two (2) years.

- E. If it is determined during the term of the Permit Exemption that the actual clearing or grading is not for agricultural purposes as represented to and approved by the Agriculture Commissioner, all further work shall cease, the site shall be stabilized and revegetated in accord with recommendations of a CPESC, and a grading permit shall be required for any further work, provided, however that a grading permit shall not be granted earlier than five (5) years from the date of application for the exemption.

- F. In the event that work is done on property pursuant to a Permit Exemption that is determined to be subject to the requirements of subsection E and application is made within the five (5)-year period during which no grading permit can be granted for any development or project unrelated to agricultural operations or involving construction of a structure or structures for which a building permit is required, it may be required as a condition of approval that the site be restored to its original condition prior to such clearing or grading to the extent feasible, and to the extent full restoration is not possible, mitigation measures shall be imposed to remediate any damage caused.

Sec. L-V 11.5 Fees

The costs of providing the services of the Building Department, Agriculture Commissioner and CPESC required by this Article shall be paid by the applicant for an exception to the grading permit requirement. Permit and plan review fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 11.6 Appeals

Appeals from discretionary orders, decisions or determinations pursuant to this Article shall be heard by the Building and Accessibility Standards Board of Appeals established pursuant to Section L-V 2.2 of the Nevada County Land Use and Development Code.

CHAPTER V: BUILDINGS

Article 12: California Electrical Code

- Sec. L-V 12.1 Annex "H" (Adopted)
- Sec. L-V 12.2 Annex "H", Section 80.15, A-H: Electrical Board (changed to read)
- Sec. L-V 12.3 Annex "H", Section 80.19, E: Fees (changed to read)
- Sec. L-V 12.4 Annex "H", Section 80.23 (B)(3): Notice of Violations, Penalties (changed to read)
- Sec. L-V 12.5 Annex "H", Section 80.27, A-D: Inspector's Qualifications (changed to read)

CHAPTER V: BUILDINGS

Article 12: California Electrical Code

The California Electrical Code as adopted by Section L-V 1.4 is adopted with the following amendments:

Sec. L-V 12.1 California Electrical Code (Adopt the following Annex Chapters from the 2016 California Electrical Code): Annex "H"

Sec L-V 12.2 Annex "H", Administration Section 80.15 A-H: Electrical Board (change to read):

Appeals resulting from decisions or determinations made by the Building Official relative to the application and interpretation of this Code shall be heard by the Building and Accessibility Standards Board of Appeals as set forth in Section L-V 2.2 of the Nevada County Land Use and Development Code.

Sec. L-V 12.3 Annex "H", Section 80.19, E: Fees (changed to read)

Permit and plan review fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec. L-V 12.4 Annex "H" Administration Section 80.23 (B)(3): Notice of Violation, Penalties (change to read):

CRIMINAL ENFORCEMENT. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to mandatory fines of one hundred dollars (\$100) for a first violation; five hundred dollars (\$500) for a second violation within a twelve month period; and one thousand dollars (\$1,000) for a third or subsequent violation within a twelve month period. Every day any violation continues shall constitute a separate offense punishable by a separate fine.

Sec. L-V 12.5 Annex "H", Section 80.27, A-D: Inspector's Qualifications (changed to read)

Inspectors shall retain certifications as required in their job classification as adopted by the County of Nevada based on the job classification they are appointed.

CHAPTER V: BUILDINGS

Article 13. Grading

Sec. L-V 13.1	Purpose
Sec. L-V 13.2	Scope
Sec. L-V 13.3	Permits Required
Sec L-V 13.4	Hazards
Sec L-V 13.5	Definitions
Sec L-V 13.6	Grading Permit Requirements
Sec L-V 13.7	Grading Fees
Sec L-V 13.8	Bonds
Sec L-V 13.9	Cuts
Sec L-V 13.10	Fills
Sec L-V 13.11	Setbacks
Sec L-V 13.12	Drainage and Terracing
Sec L-V 13.13	Road and Driveway Standards
Sec L-V 13.14	Erosion Control
Sec L-V 13.15	Grading Inspection
Sec L-V 13.16	Completion of Work

CHAPTER V: BUILDINGS

Article 13: Grading

Sec. L-V 13.1 Purpose

The purpose of this article is to safeguard life, limb, property and the public welfare by regulating grading and construction activities that result in a land disturbance on private property.

Sec. L-V 13.2 Scope

- A. This Article sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishes standards of required performance in preventing or minimizing water quality impacts from storm water runoff; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction, drainage, and erosion and sediment controls at construction sites.

Vehicular ways shall conform to the grading requirements of this Chapter.

- B. The standards listed below are recognized standard:

1. Testing.
 - a. ASTM D 1557, Moisture-Density Relations of Soils and Soil Aggregate Mixtures
 - b. ASTM D 1556, In Place Density of Soils by the Sand-Cone Method
 - c. ASTM D 2167, In Place Density of Soils by the Rubber-Balloon Method
 - d. ASTM D 2937, In Place Density of Soils by the Drive-Cylinder Method
 - e. ASTM D 6938, In Place Moisture Content and Density of Soils by Nuclear Methods

Sec. L-V 13.3 Permits Required

- A. Except as specified in Sec. L-V 13.3(B) of this section, no person shall do any grading without first having obtained a grading permit from the Building Official.
1. No drainage culvert, piping, V-ditch or energy dissipater shall be installed, replaced, altered or repaired without first obtaining a permit from the Building Official.

2. No pond shall be installed, repaired or altered without first obtaining a permit from the Building Official.

EXCEPTION: Performance of emergency work necessary to protect life or property when an urgent necessity therefore arises. The person performing such emergency work shall notify the Building Official promptly of the problem and work required and shall apply for a permit therefore within ten (10) calendar days after commencing said work.

- B. Except in flood plains as regulated in section L-II 4.3.10 of the Land Use and Development Code, a grading permit is not required for the following, provided no unstable or erodible slopes are created and no encroachment onto sewage disposal systems, water supply systems or hazardous material sites, areas or setbacks is created.

NOTE: Owners/operators of sites may still need NPDES storm water permit coverage with the State if the construction activity is part of a larger common plan of development or sale that would result in a land disturbance of greater than or equal to one acre.

1. When approved by the Building Official, grading which does not exceed 250 cubic yards in an isolated, self-contained area, with cuts, fills and erosion control conforming to the requirements of this Article, provided there is no danger to private or public property, it does not pose a significant erosion or sediment discharge hazard and is not intended to support a building or structure on fill.
2. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation having an unsupported height greater than 5 feet (1524, mm) after the completion of such structure.
3. Cemetery graves.
4. Refuse disposal sites controlled by other regulations.
5. Excavations for wells or tunnels or utilities.
6. Mining, quarrying, excavating, processing or stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
7. Exploratory excavations under the direction of soil engineers, engineering geologists, or registered environmental health specialists limited to sewage disposal systems. Such work shall be backfilled and shaped to the original contour of the land after the investigation.

8. An excavation that is less than 2 feet (610 mm) in depth, does not create a cut slope greater than 5 feet (1524, mm) in height and steeper than 1 unit vertical in 1 1/2 units horizontal (66.7% slope) and does not exceed 50 cubic yards.
 9. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.
 10. Land disturbance by plowing under or burial of less than 10,000 square feet of vegetation on slopes ten percent or steeper or any amount of vegetation, up to one acre, on slopes flatter than ten percent.
 11. Grading done by or under the supervision or construction control of a public agency that assumes full responsibility for the work to the extent required by this law.
 12. Cultivation of land to raise crops, or other clearing and grading of land for agricultural operations pursuant to criteria enacted and codified in Article 11 of this chapter.
 13. Maintenance of existing firebreaks and roads to keep the firebreak or road substantially in its original condition.
 14. Timber harvest and management activities when approved and carried out consistent with the California Forest Practices Act. Activities that are not exempt from the local regulation pursuant to Public Resources Code Section 4516.4 are subject to these regulations. Permits are required for private roads within timber harvest areas where the proposed improvements are in excess of the minimum road standards required by the California Department of Forestry for timber harvesting activities.
 15. Clearing for fire protection purposes within 100 feet of a dwelling unit. Any additional clearing for fire prevention, control or suppression purposes is exempt when authorized or required in writing by a fire prevention or suppression agency.
- C. The County may prepare and adopt a more comprehensive exemption for grading for agricultural operations than the existing exemption for cultivation of land to raise crops as part of Article 11 to this Chapter, provided that the exemption does not involve construction of any building or site preparation for any development project and that the purpose of such exemption is to promote long-term viable agricultural use of agricultural lands while protecting natural resources and provide reasonable minimum standards that define desired performance in the prevention of man-induced land failures, and control erosion, drainage, and sediment discharge.

Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction.

Sec L-V 13.4 Hazards

- A. Whenever the Building Official determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the Building Official, shall within the period specified therein repair or eliminate such excavation or embankment to eliminate the hazard and to be in conformance with the requirements of this code.

Adequate protection from hazards shall be provided at excavations. All pits, shafts, etc. shall be barricaded or covered. Upon completion of exploratory excavations and other similar operations, temporary trenches, wells, pits, shafts, etc. shall be backfilled.

Sec L-V 13.5 Definitions

- A. For the purpose of this Article, the definitions listed hereunder shall be construed as specified in this section.
1. AGRICULTURAL OPERATION for grading purposes is any land-related activity for the purpose of cultivating or raising plants or animals or conserving or protecting lands for such purpose and is not surface mining or borrow pit operations.
 2. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) is a membership society that is the foremost United States source of information on the specifications and testing of materials.
 3. APPROVAL shall mean that the proposed work or completed work conforms to this chapter in the opinion of the Building Official.
 4. AS-GRADED is the extent of surface conditions on completion of grading.
 5. BEDROCK is in-place solid rock.
 6. BENCH is a relatively level step excavated into earth material on which fill is to be placed.
 7. BORROW is earth material acquired from an off-site location for use in grading on a site.

8. BEST MANAGEMENT PRACTICES (BMPs) are physical and managerial practices that, when used separately, or in combination, prevent or reduce erosion, sedimentation, or pollution of water. An example of a guide for BMPs is the State Water Resources Control Board Best Management Practices Construction Handbook.
9. CERTIFIED EROSION CONTROL PROFESSIONAL (CPESC) is a recognized specialist in soil erosion and sediment control.
10. CIVIL ENGINEER is a professional engineer registered in the state to practice in the field of civil works.
11. CIVIL ENGINEERING is the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works.
12. CLEARING is the destruction or removal of vegetative surface cover by manual, mechanical, or chemical methods resulting in exposed soils that may be subject to erosion. This does not include clearing techniques that retain vegetation and natural drainage patterns.
13. COMPACTION is the densification of a fill by mechanical means.

CONSTRUCTION ACTIVITIES include, but are not limited to: clearing, grading, demolition, excavation, construction of new structures, and reconstruction of existing facilities involving removal and replacement that results in soil disturbance. This includes construction access roads, staging areas, storage areas, stockpiles, and any off-site areas that receive run-off from the construction project such as discharge points into a receiving water. Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility.

15. CUT. See Excavation.
16. DEPTH OF FILL is the vertical dimension from the exposed fill surface to the original ground surface.
17. DEPTH OF EXCAVATION (CUT) is the vertical dimension from the exposed cut surface to the original ground surface.
18. EARTH MATERIAL is any rock, natural soil or fill or any combination thereof.
19. EMBANKMENT. See Fill.
20. ENGINEERING GEOLOGIST is a geologist experienced and knowledgeable in engineering geology.

21. ENGINEERING GEOLOGY is the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.
22. ENGINEERED GRADING PLAN is a plan prepared by registered design professional authorized to do so by the state of California, describing the vertical and horizontal alignment and/or arrangement of grading.
23. EROSION is the wearing away of the ground surface as a result of the movement of wind, water or ice.
24. EXCAVATION is the mechanical removal of earth material.
25. EXPANSIVE SOIL is any soil which exhibits expansive properties in excess of index rating of 20 as determined by the procedures defined in the California Building Code.
26. FILL is a deposit of earth material placed by artificial means.
27. GEOLOGIC HAZARD is any condition in naturally occurring earth materials which may endanger life, health or property.
28. GEOTECHNICAL ENGINEER. See "soils engineer."
29. GRADE is the vertical location of the ground surface.
30. GRADING PLAN See engineered grading plan
31. EXISTING GRADE is the grade prior to grading.
32. FINISH GRADE is the final grade of the site that conforms to the approved plan.
33. ROUGH GRADE is the stage at which the grade approximately conforms to the approved plan.
34. GRADING is any excavating or filling or combination thereof.
35. GRADING WORK is grading and related work such as, but not limited to, drainage improvements and erosion and sediment control.
36. KEY is a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.
37. LAND DISTURBANCE is any activity that results in a change in the soil cover or the soil topography that may result in soil erosion from water or wind and the movement of sediments off site, including, but not limited to, clearing, grading, excavating, transporting, and filling of land.

38. PROFESSIONAL INSPECTION is the inspection required by this code to be performed by the civil engineer, soils engineer or engineering geologist. Such inspections include that performed by persons supervised by such engineers or geologists and shall be sufficient to form an opinion relating to the conduct of the work.
39. RAINY SEASON is the period of the year during which there is a substantial risk of rainfall. For the purpose of this Chapter, the rainy season is defined as from October 15th to April 15th, inclusive.
40. REGISTERED ENVIRONMENTAL HEALTH SPECIALIST (REHS) is an environmental health professional educated and trained within the field of environmental health who is registered with the State.
41. SEDIMENT is any material transported or deposited by water, including soil debris or other foreign matter.
42. SITE is any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.
43. SLOPE is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
44. SLOPE, DETERMINATION OF means the cross-slope of a parcel by measurement, at established intervals not crossing defined grade breaks, of the average slope perpendicular to the contour lines.
45. SOIL is naturally occurring superficial deposits overlying bedrock.
46. SOILS ENGINEER (GEOTECHNICAL ENGINEER) is an engineer experienced and knowledgeable in the practice of soils engineering (geotechnical) engineering.
47. SOILS ENGINEERING (GEOTECHNICAL ENGINEERING) is the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection or testing of the construction thereof.
48. STORM WATER POLLUTION PREVENTION PLAN (SWPPP) is a plan required for various construction and industrial activities pursuant to the Federal Clean Water Act and related State regulations.
49. TERRACE is a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.
50. VEHICULAR WAY is any public or private roadway or driveway designed for or used by vehicles (as defined by the California Vehicle Code).

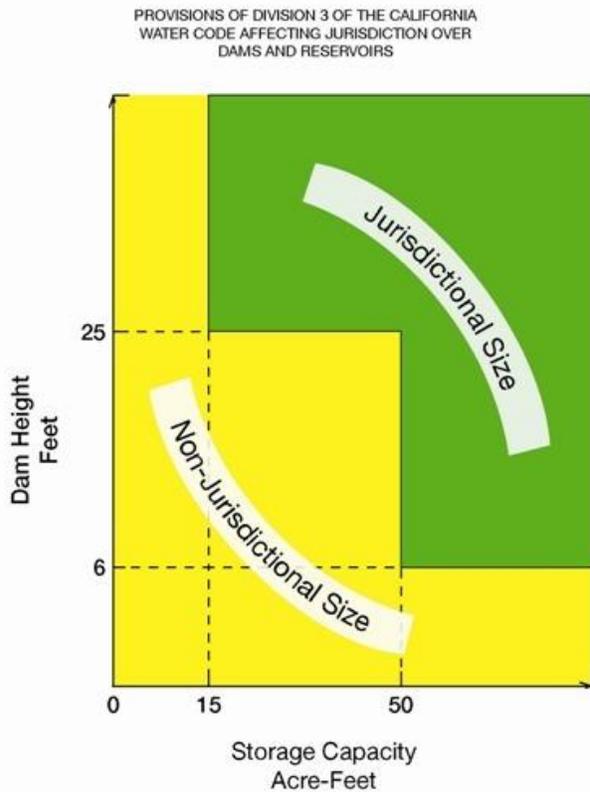
51. WATERCOURSE is any natural or manmade channel flowing continuously or intermittently in a definite direction and course or used for the holding, delay or storage of waters, which functions at any time to convey or store storm water runoff. Natural channels shall generally be limited to those designated by a solid line or a dash and three dots as shown in blue on the most recent U.S. Geological Survey 7.5 minute series of topographic maps. At the discretion of the Building Official, the definition of natural Channel may be limited to those channels having a watershed area of 50 acres or more, and this definition will be commonly used in connection with the administration of this Chapter except for those cases in which the Building Official determines that the definition must be extended to a natural channel with a watershed smaller than 50 acres in order to prevent a condition which is a menace to life and limb, endangers property, is a hazard to public safety, adversely affects the safety, use or serviceability of adjacent property, public way or drainage channel, or could adversely affect the water quality of any water bodies or watercourses were the definition not extended to a particular natural channel with a watershed below 50 acres.

Sec L-V 13.6 Grading Permit Requirements

- A. Except as exempted in Sec. L-V 13.3 of this Code, no person shall do any grading without first obtaining a grading permit from the Building Official. A separate permit shall be obtained for each site, and may cover both excavations and fills.
1. No person shall do or permit to be done any grading in such a manner that quantities of dirt, soil, rock, debris, or other material substantially in excess of natural levels are washed, eroded, or otherwise moved from the site, except as specifically provided for by a permit.
 2. No person shall do or permit to be done any grading which may obstruct, impede or interfere with the natural flow of storm waters, whether such waters are unconfined upon the surface of the land or confined within land depressions or natural drainage ways, unimproved channels or watercourses, or improved ditches, channels or conduits, in such manner as to cause flooding where it would not otherwise occur, aggravate any existing flooding condition or cause accelerated erosion except where said grading is in accordance with all applicable laws, including but not limited to, these permit requirements.

Dam construction of "Jurisdictional Size" are regulated and permitted by the Department of Water Resources, Division of Dam Safety. Dam construction of "Non-Jurisdictional Size" are regulated and permitted by the Building Department" (See Figure A).

Figure A



The construction of dams and reservoirs in excess of five feet in height but 25 feet or less in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, regardless of storage capacity, or which have a storage capacity in excess of 15 acre feet but less than 50 acre feet, regardless of height, shall be subject to County regulatory jurisdiction administered by the Building Department as part of this Chapter. Construction of all dams and reservoirs shall follow the current practices of the Department of Water Resources, Division of Safety of Dams, as dictated in the publication, "Guidelines for the Design and Construction of Small Embankment Dams" (with the exception of contact agency and application process).

3. Pond Construction and design shall be done in conformance with the most recent Conservation Practice Standard, "Pond" (Code 378) as published by the Natural Resources Conservation Service.
- B. The provisions of Section 105, Chapter 1, Division II, are applicable to grading. Additionally, the application shall state the estimated quantities of work involved.
- C. Grading shall be performed in accordance with the approved grading plan prepared by registered design professional, and shall be designated "engineered grading" The Building Official may waive this requirement if the proposed grading

is minor in nature and would not endanger the public health, safety and welfare. This grading shall be designated "regular grading".

D. Engineered Grading Requirements

1. For engineered grading requirements applications for a grading permit shall be accompanied by three set of plans and two sets of specifications and supporting data. A soils/geotechnical engineering report shall be provided in accordance with the California Building Code.
 - a. When the proposed grading includes a cut or fill exceeding ten feet in-depth at any point, or a cut or fill exceeding seven feet in depth at any point with the slope of the natural ground exceeding twenty (20) percent;
 - b. When highly expansive soils are present; or
 - c. In areas of known or suspected geological hazards, including landslide hazards and hazards of ground failure stemming from seismically induced ground shaking.

An engineering geology report shall be included with the supporting data when the proposed grading is in excess of 5,000 cubic yards. (See Sec. L-V 13.6(F)).

Specifications shall contain information covering construction and material requirements.

Plans shall be drawn to scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this Code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give location of the work, the name and address of the owner, and the person by whom they were prepared.

2. The plans shall include the following information:
 - a. General vicinity of the proposed site.
 - b. Property limits and accurate contours of existing ground and details of terrain and area drainage.
 - c. Limiting dimensions, elevations or finish contours to be achieved by the grading, and proposed drainage channels and related construction.
 - d. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with,

or as a part of, the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains.

- e. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners that are within 15 feet (4572, mm) of the property or that may be affected by the proposed grading operations.
- f. Recommendations included in the soils engineering report and the engineering geology report shall be incorporated in the grading plans or specifications. When approved by the Building Official, specific recommendations contained in the soils engineering report and the engineering geology report, which are applicable to grading, may be included by reference.
- g. The dates of the soils engineering and engineering geology reports together with the names, addresses and phone numbers of the firms or individuals who prepared the reports.
- h. Cross sections (not less than two) of existing and proposed graded areas taken at intervals not exceeding 200 feet and at locations of maximum cuts and fills.
- i. An estimate of the quantities of excavation and fill, including quantities to be moved both on and off site.
- j. A detailed erosion and sediment control plan including specific locations, construction details and supporting calculations for temporary and permanent sediment control structures and facilities.
- k. A landscaping plan, including temporary erosion control plantings, permanent drought-resistant slope plantings, replacement or temporary groundcover, and irrigation facilities.
- l. The location of any borrow site or location for disposal of surplus material.

E. The soils engineering report required by Sec. L-V 13.6(D) shall include:

- 1. An index map showing the regional setting of the site;
- 2. A site map that shows the topographic features of the site and locations of all soil borings and test excavations accompanied with a log for each soil boring and test excavation;

3. Classification of the soil types and data regarding the nature, distribution and strength of existing soils;
 4. A suitable scaled map and cross sections showing all identified areas of land slippage;
 5. A description of any encountered groundwater or excessive moisture conditions;
 6. Conclusions and recommendations for grading procedures and design criteria for corrective measures, including buttress fills, when necessary;
 7. Opinion on adequacy for the intended use of sites to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes.
- F. The engineering geology report required by Sec. L-V 13.6(D) shall include:
1. An adequate description of the geology of the site and geology of the adjacent areas when pertinent to the site;
 2. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development;
 3. Opinion on the adequacy for the intended use of sites to be developed by the proposed grading, as affected by geologic factors; and
 4. Recommendations for mitigation of geologic hazards.
- G. The Building Official may require a geotechnical investigation in accordance with the California Building or Residential Code when, during the course of an investigation, any of the following conditions are discovered, the report shall address the potential for liquefaction:
1. Shallow ground water, 50 feet (15240, mm) or less;
 2. Unconsolidated sandy alluvium;
 3. Seismic Design Category C,D, E or F.
- H. Regular Grading Requirements
1. Each application for a grading permit shall be accompanied by a plan in sufficient clarity to indicate the nature and extent of the work. The plans shall give the location of the work, the name of the owner and the name of the person who prepared the plan. The plan shall include the following information:

- a. General vicinity of the proposed site;
 - b. Limiting dimensions and depth of cut and fill;
 - c. Location of any buildings or structures where work is to be performed, and the location of any buildings or structures with fifteen (15) feet (4572, mm) of the proposed grading;
 - d. Property limits and accurate contours of existing ground;
 - e. Typical cross section(s) of the existing and proposed graded area(s) at locations of maximum cut and fill;
 - f. An estimate of the quantities of excavation and fill, including quantities to be moved both on and off site.
- I. The provisions of those applicable sections of Division II of the California Building Code are applicable to grading permits. The Building Official may require that grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.
- J. The Building Official may require professional inspection and testing. When the Building Official has cause to believe that geologic factors may be involved, the grading will be required to conform to engineered grading.
- K. In issuing a permit, the Building Official may impose conditions as prescribed by this Chapter necessary to protect the health, safety and welfare of the public, to prevent the creation of a hazard to public or private property, and to assure proper completion of the grading, including, but not limited to:
- 1. Mitigation of adverse environmental impacts as disclosed by any environmental document findings;
 - 2. Improvement of any existing unstable grading affected by this permit to comply with the standards of this Chapter;
 - 3. Protection of grading which would otherwise be hazardous;
 - 4. Dust, erosion and sediment control, and season of work, weather conditions, sequence of work, access roads and haul routes;
 - 5. Safeguard watercourses from excessive deposition of sediment or debris;
 - 6. Safeguard areas reserved for on-site sewage disposal, water supply and hazardous material storage;

7. Assurance that the land area in which grading is proposed and for which habitable structures are proposed is not subject to hazards of land slippage or significant settlement or erosion;
 8. Compliance with all applicable provisions of the Nevada County Land Use and Development Code;
- L. If grading operations are commenced before first securing a proper permit, no permit will be issued until illegal grading has stopped. In the event that no grading permit, erosion control permit or land use permit can be issued for such operation, the site shall be restored to its original condition to the extent feasible, and to the extent full restoration is not possible mitigation measures may be imposed to remediate any damage caused. Restoration shall be in conformity to an approved restoration plan;
- M. Winter operations shall not be allowed if an immitigable high potential for accelerated erosion exists due to slope, rock or soil type, proximity to a stream or drainage course, magnitude or duration of disturbance, or other characteristics of the project and the site. Approval shall be obtained from the Building Official prior to any grading activity during the Rainy Season.

Sec L-V 13.7 Grading Fees

Permit and plan review fees shall be as set forth in the fee schedule adopted by Resolution of the Nevada County Board of Supervisors.

Sec L-V 13.8 Bonds

- A. As a condition for the issuance of a permit, the Building Official may require the deposit of improvement security in sufficient amount deemed necessary to ensure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions or, in the case of a subdivision, where the permittee does not proceed with preparation and obtaining the approval of a final map. Said security shall be in the form of cash, a certified or cashier's check, a letter of credit, or a faithful performance bond executed by the applicant and a corporate surety authorized to do business in this state. The form of security shall be acceptable to County Counsel. Public agencies are exempted from this provision by law.
- B. In the case of subdivisions, the improvement security shall remain in effect until final inspections have been made and the Building Official has accepted all grading work and subdivision improvements as being complete or until the subdivider has entered into an agreement to complete all unfinished work and improvements and furnished improvement security pursuant to Section L-V 13.8, whichever first occurs.

- C. For projects other than subdivisions, the improvements security shall remain in effect until final inspections have been made and the Building Official has accepted all grading work as being complete.
- D. In addition to the improvement security, the Building Official may also require the deposit of maintenance security in a sufficient amount deemed necessary by him to guarantee and maintain the grading work to assure the proper functioning of drainage systems and adequate erosion and sedimentation control. Said maintenance security shall be in the form of cash, a certified or cashier's check, a letter of credit, or a faithful performance bond executed by the applicant and a corporate surety authorized to do business in this state and shall remain in effect for a period of one (1) year after the date of expiration of the improvement security as designated in Subsection B and C above.
- E. Any bond or deposit required by the Building Official pursuant to this Section shall be payable to the Nevada County Building Department.
- F. Upon satisfaction of applicable provisions of this Chapter, the improvement and maintenance security deposits or bonds will be released. However, upon failure to complete the work, failure to comply with all of the terms of the permit, or failure of the completed site to function properly to provide proper drainage or erosion and sedimentation control, the County may do the required work, or cause it to be done, and collect from the permittee or surety all costs incurred thereto, including administrative and inspection costs. Any unused portion of a deposit or bond shall be refunded to the permittee after deduction by the County of the cost of the work.

Sec L-V 13.9 Cuts

- A. Unless otherwise recommended in the approved soils engineering or engineering geology report, cuts shall conform to the provisions of this section.

In the absence of an approved soils engineering report, these provisions may be waived for minor cuts not intended to support structures.

- B. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than 1 unit vertical in 2 units horizontal (50% slope) unless the permittee furnishes a soils engineering or an engineering geology report, or both, stating that the site has been investigated and giving an opinion that a cut at a steeper slope will be stable and not create a hazard to public or private property.

EXCEPTION: A cut surface may be at a slope gradient of 1.5 horizontal to 1 vertical (67 percent) provided that all of the following are met:

1. It is not intended to support structures or surcharges.
2. It is adequately protected against erosion.
3. It is no more than 8 feet in height.
4. The soil is not classified as CH, CL, or MH.
5. It is approved by the Building Official

Sec L-V 13.10 Fills

- A. Unless otherwise recommended in an approved soils engineering report, fills shall conform to the provisions of this Section.
1. Where fill is intended to support any permanent structure, an engineered grading plan shall be required. The placement and compaction requirements shall be as stated in the engineering report.
 2. Where fill is intended to support any paved surface, or is part of a fire access road or driveway, the requirements of Sec. L-V 13.10 shall be followed.
 3. The guidelines of Sec. L-V 13.10 shall be followed for all other fills except compaction to a minimum of 90 percent of maximum density need not be provided for minor fills not intended as a buildable area. Lots with non-engineered fills or fills not compacted in compliance with Sec. L-V 13.10(D) shall be documented. Future development on the lots shall require a qualified person to determine the proposed work is not within the fill area or can adequately be built in the fill area.
- B. Fill slopes shall not be constructed on natural slopes steeper than 1 unit vertical in 2 units horizontal (50% slope). The ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, topsoil and other unsuitable materials scarifying to provide a bond with the new fill and, where slopes are steeper than 1 unit vertical in 5 units horizontal (20% slope) and the height is greater than 5 feet (1524, mm), by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than 1 unit vertical in 5 units horizontal (20% slope) shall be at least 10 feet (3048, mm) wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least 10 feet (3048, mm) wide but the cut shall be made before placing the fill and acceptance by the soils engineer or engineering geologist or both as a suitable foundation for fill.
- C. Detrimental amounts of organic material shall not be permitted in fills. Except as permitted by the Building Official, no rock or similar irreducible material with a maximum dimension greater than 12 inches (305 mm) shall be buried or placed in fills.

EXCEPTION: The Building Official may permit placement of larger rock when the soils engineer properly devises a method of placement, and continuously inspects its placement and approves the fill stability. The following conditions shall also apply:

1. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan;

2. Rock sizes greater than 12 inches (305 mm) in maximum dimension shall be 10 feet (3048, mm) or more below grade, measured vertically;
 3. Rocks shall be placed so as to assure filling of all voids with well-graded soil.
- D. All fills shall be compacted to a minimum of 90 percent of maximum density.
- E. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than 1 unit vertical in 2 units horizontal (50% slope).

Sec L-V 13.11 Setbacks

- A. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary. Setback dimensions shall be as shown in Figure A-33-1.

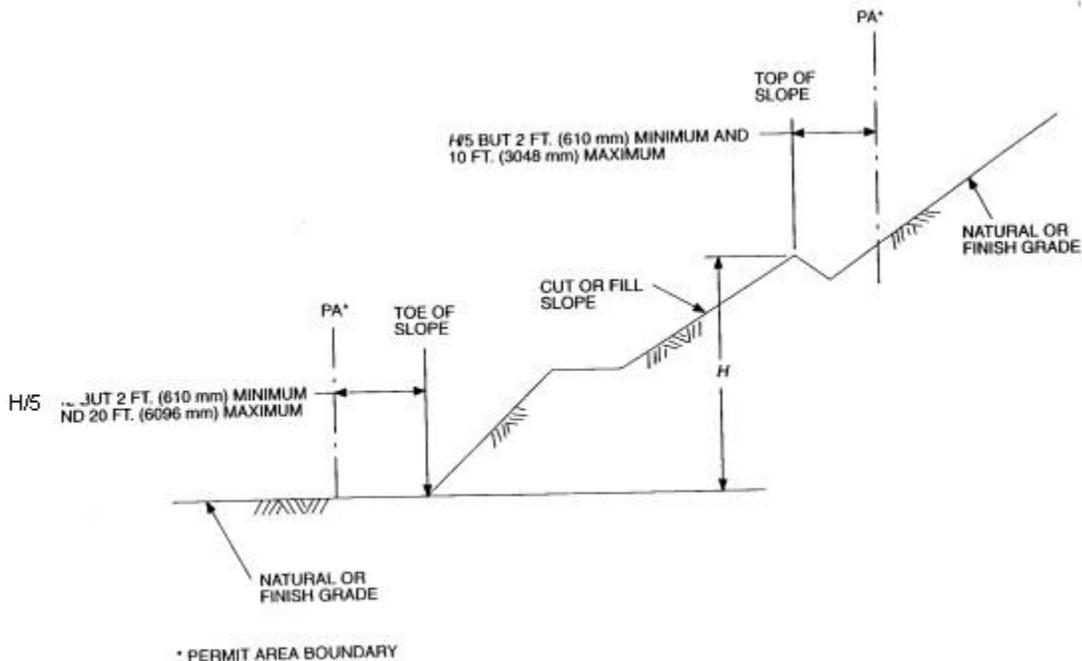


FIGURE A-33-1—SETBACK DIMENSIONS

- B. The top of cut slopes shall not be made nearer to a site boundary line than one fifth of the vertical height of cut with a minimum of 2 feet (610 mm) and a maximum of 10 feet (3048 mm). The setback may need to be increased for any required interceptor drains.

- C. The toe of fill slope shall be made not nearer to the site boundary line than one fifth the height of the slope with a minimum of 2 feet (610 mm) and a maximum of 20 feet (6096, mm). Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, special precautions shall be incorporated in the work as the Building Official deems necessary to protect the adjoining property from damage as a result of such grading. These precautions may include but are not limited to:
1. Additional setbacks;
 2. Provision for retaining or slough walls;
 3. Mechanical or chemical treatment of the fill slope surface to minimize erosion;
 4. Provisions for the control of surface waters.
- D. The Building Official may approve alternate setbacks. The Building Official may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.

Sec L-V 13.12 Drainage and Terracing

- A. Unless otherwise recommended by a registered design professional, drainage facilities and terracing shall be provided in accordance with the requirements of this section.

Exception: Drainage facilities and terracing need not be provided where the ground slope is not steeper than 3 horizontal to 1 vertical (33 percent).

All areas shall be graded and drained so that water will not pond or accumulate. Drainage shall be effected in such a manner that it will not cause erosion or endanger the stability of any cut or fill slope or any building or structure.

Storm drainage and design standards not otherwise specified herein shall comply with Article 5 "Storm Drainage", Chapter XVII, of the County of Nevada Land Use and Development Code.

- B. Terraces at least 6 feet (1829, mm) in width shall be established at not more than 30-foot (9144, mm) vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet (18288, mm) and up to 120 feet (36576, mm) in vertical height, one terrace at approximately mid-height shall be 12 feet (3658, mm) in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet (36576, mm) in height shall be designed by the civil engineer and approved by the Building Official. Suitable access shall be provided to permit proper cleaning and maintenance.

Swales or ditches on terraces shall have a minimum gradient of 5 percent and must be paved with reinforced concrete not less than 3 inches (76 mm) in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of 1 foot (305 mm) and a minimum paved width of 5 feet (1524, mm).

A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (1254.2, m²) (projected) without discharging into a down drain.

- C. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.
- D. All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the Building Official or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down-drains or other devices.

Building pads shall have a drainage gradient of five (5) percent toward approved drainage facilities, unless waived by the Building Official.

EXCEPTION: The gradient from the building pad may be two (2) percent if all of the following conditions exist throughout the permit area:

1. No proposed fills are greater than 10 feet (3048, mm) in maximum depth.
2. No proposed finish cut or fill slope faces have a vertical height in excess of 10 feet (3048, mm).
3. No existing slope faces steeper than 1 unit vertical in 10 units horizontal (10% slope) have a vertical height in excess of 10 feet (3048, mm).

When surface drainage is discharged onto any property, it shall be discharged in such a manner that it will not cause erosion or endanger any cut or fill slope or any building or structure. A grading and discharge plan shall be required which includes the analysis of the effect of the discharge.

- E. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes toward the cut and has a drainage path greater than 40 feet (12192, mm) measured horizontally. Interceptor drains shall be paved with a minimum of 3 inches (76 mm) of concrete or gunite and reinforced. They shall have a minimum depth of 12 inches (305 mm) and a minimum paved width of 30 inches (762 mm) measured horizontally across the drain. The slope of drain shall be approved by the Building Official.
- F. Drainage across property lines shall not exceed that which existed prior to grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive down drains and other devices.

Sec L-V 13.13 Road and Driveway Standards

- A. The construction and design of all roadways shall be done in conformance with Article 3, "Road Design Standards", Chapter XVII, LUDC.
- B. The construction and design of all driveways shall be done in conformance with Article 3, "Driveways", Chapter XVI, LUDC.
 - 1. At no place along the length of a driveway shall the grade be in excess of the established grades in Article 3, "Driveways" Chapter XVI, LUDC.

Sec L-V 13.14 Erosion Control

- A. The following shall apply to the control of erosion and sediment from grading and construction activities resulting in land disturbance:
 - 1. Plans shall be designed with long-term erosion and sediment control as a primary consideration;
 - 2. Grading and construction activities during the rainy season shall provide erosion and sediment control measures except upon a clear demonstration to the satisfaction of the Building Official that at no stage of the work will there be any substantial risk of increased sediment discharge from the site;
 - 3. Should land disturbance be permitted during the rainy season, the smallest practicable area of erodible land shall be exposed at any one time during grading operations and the time of exposure shall be minimized;
 - 4. Natural features, including vegetation, terrain, watercourses and similar resources shall be preserved wherever possible. Limits of land disturbance shall be clearly defined and marked to prevent damage by construction equipment;
 - 5. Permanent drought-resistant vegetation and structures for erosion and sediment control shall be installed as soon as possible;
 - 6. Provision shall be made for long-term maintenance of permanent erosion and sediment control structures and vegetation;
 - 7. No topsoil shall be removed from the site unless otherwise directed or approved by the Building Official. Topsoil overburden shall be stockpiled and redistributed within the graded area after rough grading to provide a suitable base for seeding and planting. Runoff from the stockpiled area shall be controlled to prevent erosion and resultant sedimentation of receiving water;
 - 8. Runoff shall not be discharged from the site in quantities or at velocities substantially above those that occurred before land disturbance, or

channeled, concentrated or redirected except into drainage facilities whose design has been specifically approved by the Building Official;

9. The permittee shall take reasonable precautions to ensure that vehicles do not track or spill earth materials into public streets and shall immediately remove such materials if this occurs.
- B. Should increased sediment discharge occur or become imminent, the permittee shall take all necessary steps to control such discharge. Such steps may include construction of additional facilities or removal or alteration of facilities required by approved erosion and sediment control plans. Facilities removed or altered shall be restored as soon as possible afterward or appropriate changes in the plan shall be immediately requested pursuant to this Chapter. Permittee shall take prompt action to resolve emergency problems; otherwise, the Building Official may take such actions as required to abate a hazardous public nuisance.
- C. Erosion and sediment control plans prepared pursuant to this Chapter shall comply with all of the following:
1. The erosion and sediment control plan need not be a separate sheet if all facilities and measures can be shown on the grading sheets without obscuring the clarity of either the grading plan or the erosion and sediment control plan.
 2. An erosion and sediment control plan shall be required for any grading project required to have a grading permit.

EXCEPTION: The Building Official determines that the grading and/or construction activity will not impose a significant erosion or sediment discharge hazard.

3. Erosion and sediment control plans shall include an effective re-vegetation program to stabilize all disturbed areas that will not be otherwise protected. All such areas where construction activities have been completed between April 15th and October 15th shall be planted no later than November 1st. Land disturbance areas completed at other times of the year shall be planted within 15 days. If re-vegetation is infeasible or cannot be expected to stabilize an erodible area with assurance during any part of the rainy season and the unstable area exceeds 2,500 square feet, additional erosion and sediment control measures or irrigation of planted slopes may be required as appropriate to prevent increased sediment discharge.
4. Erosion and sediment control plans shall be designed to prevent increased discharge of sediment at all stages of grading and construction activities from initial disturbance of the ground to project completion. Every feasible effort shall be made to ensure that site stabilization is permanent. Plans shall indicate the implementation period and the stage of construction where applicable.

5. Erosion and sediment control plans shall comply with the recommendations of any Civil Engineer, Geotechnical Engineer, Engineering Geologist, Architect, or Soil Erosion Control Specialist involved in preparation of the grading plans.
6. The structural and hydraulic adequacy of all storm water containment or conveyance facilities shown on the erosion and sediment control plans shall be verified by a Civil Engineer, and he shall so attest on the plans. Sufficient calculations and supporting material to demonstrate such adequacy shall accompany the plans when submitted.
7. Erosion and sediment control plans shall be designed to meet anticipated field conditions.
8. Erosion and sediment control plans shall provide for inspection and repair of all erosion and sediment control facilities at the close of each working day during the rainy season, and for specific sediment clean-out and vegetation maintenance criteria.
9. Erosion and sediment control plans shall comply with any and all standards and specifications adopted herein for the control of erosion and sedimentation on grading sites. These standards and specifications shall be in general compliance with the Erosion and Sediment Control Guidelines for Developing Areas of the Sierras published by High Sierra Resource Conservation and Development Council.
10. For projects subject to the State requirements to prepare a SWPPP (Storm Water Pollution Prevention Program) a preliminary SWPPP may be submitted in lieu of the erosion and sediment control plan required by these regulations.

Sec L-V 13.15 Grading Inspection

- A. Grading operations for which a permit is required shall be subject to inspection by the Building Official. Professional inspection of grading operations shall be provided by the civil engineer, soils engineer and the engineering geologist retained to provide such services in accordance with Sec L-V 13.15(E) for engineered grading and as required by the Building Official for regular grading.
- B. The civil engineer shall provide professional inspection within such engineer's area of technical specialty, which shall consist of observation and review as to the establishment of line, grade and surface drainage of the development area. If revised plans are required during the course of the work they shall be prepared by the civil engineer.
- C. The soils engineer shall provide professional inspection within such engineer's area of technical specialty, which shall include observation during grading and testing for required compaction. The soils engineer shall provide sufficient

observation during the preparation of the natural ground and placement and compaction of the fill to verify that such work is being performed in accordance with the conditions of the approved plan and the appropriate requirements of this chapter. Revised recommendations relating to conditions differing from the approved soils engineering and engineering geology reports shall be submitted to the permittee, the Building Official and the civil engineer.

- D. The engineering geologist shall provide professional inspection within such engineer's area of technical specialty, which shall include professional inspection of the bedrock excavation to determine if conditions encountered are in conformance with the approved report. Revised recommendations relating to conditions differing from the approved engineering geology report shall be submitted to the soils engineer.
- E. The permittee shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this code, and the permittee shall engage consultants, if required, to provide professional inspections on a timely basis. The permittee shall act as a coordinator between the consultants, the contractor and the Building Official. In the event of changed conditions, the permittee shall be responsible for informing the Building Official of such change and shall provide revised plans for approval.

Periodic progress reports may be required to be rendered by the permittee at commencement and completion of major key grading and erosion and sediment control operations.

No permittee shall be deemed to have complied with this Chapter until the Building Official has made a final inspection of the work and he has certified in writing that the work has been completed in accordance with all requirements and conditions of the permit.

The permittee shall provide adequate access to the site for inspection by the Building Official during the performance of all work and for a minimum period of one year after acceptance by the Building Official of all improvements pursuant to this Chapter.

- F. The Building Official shall inspect the project at the various stages of work requiring approval to determine that adequate control is being exercised by the professional consultants.
- G. If, in the course of fulfilling their respective duties under this Chapter, the civil engineer, the soils engineer, or the engineering geologist finds that the work is not being done in conformance with this Chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the permittee and to the Building Official.
- H. If the civil engineer, the soils engineer, or the engineering geologist of record is changed during grading, the work shall be stopped until the replacement has

agreed in writing to accept their responsibility within the area of technical competence for approval upon completion of the work. It shall be the duty of the permittee to notify the Building Official in writing of such change prior to the recommencement of such grading.

- I. As a condition of the permit, the Building Official may require the permittee to provide, at permittee's expense, a Geotechnical Engineer or Civil Engineer to perform continuous inspection work, and upon completion of the work to provide a written statement acknowledging that he has inspected the work and that in his professional judgment the work was performed in accordance with the approved plans and specifications. The permittee shall make contractual arrangements for such services and be responsible for payment of all costs. Continuous inspection by a Geotechnical Engineer or Civil Engineer shall include, but not be limited to, the following situations:

1. During the preparation of a site for the placement of fills which exceed five (5) feet in depth on slopes which exceed ten percent (10%) and during the placing of such fills; however, for vehicular pathways, fill placement shall be continuously inspected when fills exceed ten (10) feet in height.
2. During the preparation of a site for the placement of any fill and during the placement of such fill which is intended to support any building or structure.
3. During the installation of subsurface drainage facilities.

Reports filed by the Geotechnical Engineer or Civil Engineer regarding special inspection shall state in writing that from his personal knowledge the work performed during the period covered by the report has been performed in substantial accordance with the approved plans and specifications.

The use of a Geotechnical Engineer or Civil Engineer for inspections shall not preclude the Building Official from conducting inspections using his or other authorized inspectors as may be necessary.

Sec L-V 13.16 Completion of Work

- A. Upon completion of the rough grading work and at the final completion of the work, the following reports and drawings and supplements thereto are required for engineered grading or when professional inspection is performed for regular grading, as applicable.
 1. An as-built grading plan prepared by the civil engineer retained to provide such services in accordance with Sec L-V 13.15(E) showing original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, and the locations and elevations of surface drainage facilities and of the outlets of subsurface drains. As-constructed locations, elevations and details of subsurface drains shall be shown as reported by the soils engineer.

Civil engineers shall state that to the best of their knowledge the work within their area of responsibility was done in accordance with the final approved grading plan.

2. A report prepared by the soils engineer retained to provide such services in accordance with Sec. L-V 13.15(C) of this Chapter, including locations and elevations of field density tests, summaries of field and laboratory tests, other substantiating data, and comments on any changes made during grading and their effect on the recommendations made in the approved soils engineering investigation report. Soils engineers shall submit a statement that, to the best of their knowledge, the work within their area of responsibilities is in accordance with the approved soils engineering report and applicable provisions of this chapter.
 3. A report prepared by the engineering geologist retained to provide such services in accordance with Sec L-V 13.15(E), including a final description of the geology of the site and any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. Engineering geologists shall submit a statement that, to the best of their knowledge, the work within their area of responsibility is in accordance with the approved engineering geologist report and applicable provisions of this chapter.
 4. The grading contractor shall submit, in a form prescribed by the Building Official, a statement of conformance to said as-built plan and the specifications.
- B. The permittee shall notify the Building Official when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all erosion-control measures have been completed in accordance with the final approved grading plan, and the required reports have been submitted.

History

Ord. #112, Ord. #257, 12/1/61; Ord. #281, 5/1/63; Ord. #425, 2/18/69; Ord. #510, 2/9/71; Ord. #621, 1/30/73; Ord. #658, 12/11/73; Ord. #660, 1/29/74; Ord. #665, 4/2/74; Ord. #702, 3/18/75; Ord. #730, 9/23/75; Ord. #771, 12/14/76; Ord. #810, 10/4/77; Ord. #829, 1/10/78; Ord. #859, 9/25/78; Ord. #864, 10/16/78; Ord. #905, 7/30/79; Ord. #1057, 12/14/81; Ord. #1103, 10/4/82; Ord. #1113, 12/20/82; Ord. #1230, 5/21/84; Ord. #1231, 5/21/84; Ord. #1320, 8/5/85; Ord. #1367, 8/11/86; Ord. #1397, 8/11/86; Ord. #1428, 4/13/87; Ord. #1434, 5/12/87; Ord. #1453, 9/15/87; Ord. #1469, 11/24/87; Urg. Ord. #1481, 2/2/88; Ord. #1520, 9/6/88; Urg. Ord. #1527, 9/13/88; Urg. Ord. #1530, 9/27/88; Urg. Ord. #1531, 10/11/88; Urg. Ord. #1543, 11/22/88; Ord. #1597, 10/24/89; Ord. #1616, 1/16/90; Ord. #1626, 3/20/90; Ord. #1636, 4/24/90; Ord. #1652, 7/24/90; Ord. #1700, 3/29/91; Ord. #1794, 8/4/92; Ord. #1831, 5/18/93; Ord. #1845, 9/14/93; Ord. #1861, 5/17/94; Urg. Ord. #1870, 8/16/94; Ord. #1873, 9/20/94; Urg. Ord. #1884, 5/2/95; Urg. Ord. #1905, 6/25/96; entire article repealed and re-enacted by Ord. #1919, 11/5/96; Ord. #1924, 12/10/96; Ord. #1933, 3/4/97; Ord. #1991, 11/5/99; Ord. #2006, 9/28/99; Ord. #2007, 9/28/09; repealed in error by Ord. #2009 (added back by Ord. #2023), 10/26/99; entire Chapter V repealed and re-enacted by Ord. No. 2009, 10/26/99; Ord. #2022, 3/28/00; Ord. #2023, 3/28/00; Ord. #2034, 8/8/00; Ord. #2061, 6/12/01; entire Chapter V repealed and re-enacted by Ord. No. 2094, 9/24/02; Ord. #2097, 10/1/02; Ord. #2102, 12/24/02; Ord. #2183, 5/24/05; Ord. #2097, 10/1/02; Ord. #2218, 10/10/06; entire Chapter repealed and reenacted by Ord. #2269, 07/08/08; entire Chapter repealed and reenacted by Ord. #2331, 11/23/10. Entire Chapter repealed and reenacted by Ord. #2374, 01/14/2014.

ORDINANCE NO. 2017- xx

AN ORDINANCE OF THE CITY OF NEVADA CITY AMENDING TITLE 15 OF THE NEVADA CITY MUNICIPAL CODE TO ADOPT THE 2016 CALIFORNIA BUILDING STANDARDS, WITH LOCAL AMENDMENTS SIMILAR TO THOSE ADOPTED BY NEVADA COUNTY BY ORDINANCE NO. 2424

WHEREAS, the local climatic, geological, and topographical conditions in Nevada City are the same as or substantially similar to those in western County of Nevada where it is located, and

WHEREAS, the City of Nevada City contracts with the County of Nevada for its building inspection services, making it desirable to have the same building standards and amendments applicable within the City of Nevada City as those applicable in the County, and

WHEREAS, the County of Nevada has reviewed and on December 13, 2016 has adopted by Ordinance No. 2424 building standards, local amendments, and findings applicable to the unincorporated areas after review and report by the County Building Director; and

WHEREAS, the City Council of the City of Nevada City concurs with the adopted purpose, amendments and findings adopted therein and desires to adopt the same amendments to be applicable within the City boundaries upon the same findings, except as specified herein, leaving in effect those provisions of Title 15 having special application only to the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY HEREBY ORDAINS AS FOLLOWS:

SECTION I: Legislative Purpose

- A. The State of California revises its building standards on a triennial basis. The building standards are intended to regulate and govern the conditions and maintenance of all property, buildings and structures by providing standards for supplied utilities, facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use.
- B. It is the purpose and the intent of this Ordinance to make substantive revisions to Title 15 (Building and Construction) of the Nevada City Municipal Code to ensure conformity with the 2016 edition of the California Building Standards, to wit, the California Building Code and Division II Scope and Administration thereof, the California Residential Code, the California Green Building Standards Code, the California Plumbing Code, the California Electrical Code, the California Fire Code, the California Mechanical Code, the California Energy Code, the California Referenced Standards Code, the California Existing Building Code, the 2013 California Historical Building Code, the 1997 Uniform Housing Code, the 1997 Uniform Code for the Abatement of Dangerous Buildings, the 2015 International Swimming Pool and Spa Code, and the 2015 International Property Maintenance Code and modifications thereto as adopted by the County of Nevada by Ordinance No.2424 and by the City of Nevada City

herein. A copy of the 2016 edition of the California Building Standards and included Codes is on file in the Nevada County Building Department and available on-line.

- C. Pursuant to Health and Safety Code Section 17958.5, *et seq.*, local jurisdictions may make such changes or modifications in the requirements contained in the provisions of the California Building Standards Code, as are reasonably necessary because of local climatic, geological, or topographical conditions. Nevada County's amendments to the 2016 California Building Standards, which have been made in response to unique climatic, geological, or topographical conditions in Nevada County, are codified in Chapter V of the Nevada County Land Use and Development Code and by this Ordinance are adopted by the City of Nevada City with modifications applicable within the City's jurisdiction. Local amendments to the California Building Standards Code shall not become effective until the modifications and findings have been filed with the Building Standards Commission.

SECTION II:

Chapters 15.04 and 15.08 of the Nevada City Municipal Code enacted by Ordinance No. 2014-01 to adopt and amend the 2013 edition of the California Building Standards are hereby revoked and repealed, except as re-enacted by the updated provisions adopted by this Ordinance. By way of clarification, Section 15.16.10 enacted by Ordinance No. 2008-06 and re-codified as "Chapter 15.16 Very High Fire Hazard Severity Zones" by Ordinance No. 2012-04 remained in effect and are left in effect and readopted by this ordinance. Further, the amendment of subsection A of Section 17.80.100 by enacted Ordinance 2014-01 and reading "A. In addition to the requirements of the California Building Codes and amendments thereto adopted by the City requiring that a grading plan be approved by the Building Department in certain circumstances, the City Engineer shall also have authority to approve grading plans." shall remain in effect and is readopted by this Ordinance.

SECTION III:

Chapters 15.04 and 15.08 of the Nevada City Municipal Code are amended and reenacted as set forth in Exhibit "A", attached hereto and incorporated by such reference.

SECTION IV. Findings

- A. The City Council hereby finds and declares that the amendments to the 2016 California Building Standards, as codified in Chapter L-V of the Nevada County Land Use and Development Code pursuant to Nevada County Ordinance No. 2424 and as modified herein, are reasonably necessary because of local climatic, geological, and topographical conditions, topographical variations and the high risk of forest fires within the City and County. Said amendments are deemed more restrictive than the published 2016 California Building Standards.
- B. The City Council hereby finds and declares that this Ordinance is exempt from California Environmental Quality Act (CEQA) review pursuant to the CEQA guidelines, including §15378(b)(5) as an organizational or administrative governmental activity that will not result in direct or indirect physical changes to the environment, and §15060(c)(2) as an activity that does not create a potential for direct or reasonably foreseeable indirect physical change in the environment.

SECTION V:

If any provision of this Ordinance is held unconstitutional or otherwise invalid, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and effect.

SECTION VI:

This Ordinance shall become effective thirty (30) days after the adoption date thereof and within fifteen (15) days of passage of this Ordinance, the City Clerk shall publish this Ordinance in The Union, a newspaper of general circulation.

Passed and Adopted at the regular meeting of the City Council of the City of Nevada City on the ____ day of _____, 2017 by the following vote:

AYES:

NOES:

ABSENT

ABSTAIN:

Evans Phelps, Mayor

ATTEST:

Niel Locke, City Clerk

Chapter 15.04

BUILDING STANDARDS

Sections:

- 15.04.005 Purpose.**
- 15.04.010 Definitions.**
- 15.04.015 California Codes adopted.**
- 15.04.020 California amendments adopted.**
- 15/04.025 Copies of Codes and County amendments.**
- 15.04.030 Special rules applicable to building permits in City and Historical District.**
- 15.04.035 Building Standards Board of Appeals.**
- 15.04.040 Building Accessibility Standards Board of Appeals.**
- 15.04.045 Work exempt from permit; building permit.**
- 15.04.050 Work exempt from permit; building permit.**
- 15.04.100 Savings clause.**

15.04.005 Purpose.

This Chapter is enacted for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures, regulated equipment, grading and construction activities that result in a land disturbance on private property within this jurisdiction in conformity with the 2016 edition of the California Building Standards and consistent with and complementary to standards adopted by the County of Nevada. Nothing in the codes hereinafter adopted shall be construed to prevent any person from performing his own building, mechanical, plumbing or electrical work when performed with the permits in compliance with this Chapter.

15.04.010 Definitions.

For the purpose of this Chapter, the following terms and words used herein or in any of the codes or ordinances adopted by reference therein, unless the context directs otherwise, shall have the meaning ascribed to them by this Section:

"Board of appeals", "housing advisory" and "appeals board" and any other references to an appellate body in any of the uniform codes or County amendments adopted by reference by this Chapter mean such entities as may be designated by the city council of Nevada City by resolution.

"Building official", "administrative authority", "responsible official", "chief building inspector", "plumbing official", "mechanical official", "electrical official" and similar references to a chief administrative position mean the building official for Nevada County under contract to furnish such services to Nevada City, or such other entity as the city council of Nevada City may designate, subject to the limitations on their discretion provided in Section 15.04.023.

"City", "agency" or "jurisdiction" means the City of Nevada City. "Clerk of this jurisdiction" means the city clerk. "Governing body", "legislative body", "city council", "council" or "appointing authority" means the city council of Nevada City. "Technical codes" means those codes and publications adopted by Nevada City containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures and building service equipment.

"County" means the County of Nevada.

15.04.015 California Codes adopted.

Subject to the modifications and amendments contained in this Chapter, the following codes and standards are adopted and incorporated into the Municipal Code of the City of Nevada City by reference and have the same legal effect as if set forth herein:

- A. Division II, Scope and Administration, 2016 California Building Code.
- B. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 12 (California Referenced Standards Code), in whole thereof.
- C. The 2016 edition of the California Building Code, known as the California Code of Regulations, Title 24, Part 2 (California Building Code), incorporating the International Building Code, 2015 Edition, of the International Code Council, the whole thereof with State amendments, including appendixes "C", "H", "I" and "J" and amendments adopted by the County of Nevada as adopted and modified pursuant to the following Section.
- D. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 9 (California Fire Code), incorporating the International Fire Code, 2015 Edition, of the International Code Council, the whole thereof with State amendments, save and except article 86 thereof, including appendix chapters and amendments adopted by the County of Nevada as adopted and modified pursuant to the following Section.
- E. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 5 (California Plumbing Code), incorporating the Uniform Plumbing Code, 2015 Edition, of the

International Association of Plumbing and Mechanical Officials, the whole thereof with State amendments, including appendix chapters adopted by the County of Nevada as adopted and modified pursuant to the following Section.

- F. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 4 (California Mechanical Code), incorporating the Uniform Mechanical Code, 2015 Edition, of the International Association of Plumbing and Mechanical Officials, the whole thereof with State amendments, including appendix chapters adopted by the County of Nevada as adopted and modified pursuant to the following Section.
- G. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 3 (California Electrical Code), incorporating the National Electrical Code, 2014 Edition, of the National Fire Protection Association, the whole thereof with State amendments, including annex chapters and amendments adopted by the County of Nevada as adopted and modified pursuant to the following Section..
- H. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 2.5 (California Residential Code), incorporating the International Residential Code, 2015 Edition, of the International Code Council, the whole thereof with State amendments, including Appendixes "H", "J", "K" and "S" and amendments as adopted and modified pursuant to the following Section.
- I. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 11 (California Green Building Standards Code), the whole thereof with State amendments.
- J. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 6 (California Energy Code) in whole thereof, with State Amendments.
- K. The 2013 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 8 (California Historical Building Code), the whole thereof with State amendments.
- L. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 10 (California Existing Building Code), incorporating the International Existing Building Code, 2015 Edition, of the International Code Council, the whole thereof with State amendments.
- M. The 2015 International Property Maintenance Code of the International Code Council.
- N. The 1997 Uniform Code for the Abatement of Dangerous Buildings of the International Conference of Building Officials.

- O. The 1997 Uniform Housing Code of the International Conference of Building Officials.
- P. The International Swimming Pool and Spa Code, 2015 Edition with the amendments set forth in Article 9 of this Chapter.

15.04.020 County amendments adopted.

Subject to the modifications and amendments contained in this Title, the Nevada County amendments to the 2016 California Building Standards adopted by Nevada County Ordinance No. 2424 on December 13, 2016 are adopted and incorporated into the Municipal Code of the City of Nevada City by reference and have the same legal effect as if set forth herein. Excluded from this adoption shall the following provisions adopted by the county by Ordinance No. 2424 for inclusion in the Nevada County Land Use and Development Code :

- A. The County amendment in section L-V 5.8 in Chapter V, Article 5 providing for fire agency appeals to the Board of Supervisors;
- B. The County amendments in Chapter V, Article 11 adopting more comprehensive exemptions from grading permit requirements for landform grading for agriculture; and
- C. Any regulations regarding the construction of limited density owner-built dwellings contained in the California Code of Regulations, Title 25, Chapter 1, Article 8, which has not been adopted by the City

15.04.023 Limit on discretion of building official.

Whenever in the building regulations it is provided that anything must be done with the approval of or subject to the direction of the Building Official, this shall be construed to give such officer only the discretion of determining whether the rules and standards established by this Chapter have been complied with, and no such provision shall be construed as giving that officer any discretionary powers as to what such regulations or standards should be where the effect would be to increase the cost or time to complete the project or the power to require conditions not prescribed by this Chapter or to enforce such rules and standards in an arbitrary or discriminatory manner. Where the work for which the building permit is issued involves the remodel, restoration, renovation or rehabilitation of an existing building or structure, the Building Official shall not review or require changes to existing conditions outside the scope of the work for which the permit is issued or required.

15.04.025 Copies of Codes and County and City amendments.

Pursuant to Nevada County Land Use and Development Code Sec. L-V 1.5, the Nevada County Building Department maintains on file copies of the Codes and Standards referred to in Section 15.04.010 of this Chapter. Copies of Nevada County Ordinance No. 2424 adopting the County amendments referred to in the preceding section are on file with the County of Nevada and shall be maintained at City Hall as well, together with copies of this City Ordinance.

15.04.030 Special rules applicable to building permits in City and Historical

District.

- A. In addition to the applicable requirements in Sec. L-V 1.7. A-D, subsection A of Sec, L-V 1.8 and Sec. L-V 1.9 of the Nevada County Land Use and Development Code, no grading or building permit shall be issued for property located in the City until the land use is approved by the City.
- B. By City Ordinance Nos. 338, 344, 365, 89-5 and 92-5, the City has designated a downtown Historical District deemed to be of importance to the history, architecture and culture of Nevada City and the buildings and properties therein shall be considered to be qualified historical buildings or properties for purposes of allowing alternate standards under the Historical Building Code to be applied to any work thereon, including without limitation, remodel, restoration, renovation and rehabilitation thereof. To encourage and promote such work and assure that it is not unduly restricted or delayed, the Building Official shall provide written notice to the City whenever any building permit is requested for buildings or properties within the Historical District and shall work with the City to facilitate timely completion, inspection and approval of such work and make no changes to a City-approved permit without prior written City approval.

15.04.035 Building and Accessibility Standards Board of Appeals.

- A. In order to hear and decide appeals of discretionary orders, decisions or determinations made by the Building Official relative to the application and interpretation of the provisions of the technical codes or the Historical Building Code or relative to the enforcement of the California Access to Public Accommodations by Physically Disabled Persons regulations within the City, the city council may, on a case-by-case basis or for designated periods of time, 1) designate the Nevada County Building and Accessibility Standards Board of Appeals created pursuant to Section 113.1, as modified by Sec. L-V 2.1 of the Nevada County Land Use and Development Code, to act as the Nevada City Building and Accessibility Standards Board of Appeals; 2) create its own Building and Accessibility Standards Board of Appeals subject to the same regulations as a County Board with each council member appointing one member who is not an employee of the City and is qualified by experience and training to pass on the matters appealed, including, but not limited to building construction, building service equipment and grading, with each appointed member to serve at the pleasure of the appointing council member; or 3) proceed as provided in subsection C hereof. The Building Official making the decision appealed from may be an ex officio member and serve as secretary to the Board of Appeals but shall have no vote in the matter.
- B. The option for the city council to create its own Building and Accessibility Standards Board of Appeals for decisions relating to property and buildings within the City as provided herein shall be available as an alternative to the provisions adopted by the County for appeals regarding all codes adopted herein where the county adopted provisions refer back to Section L-V 2.1 or 2.2 of the Nevada County Land Use and Development Code, whether or not specifically provided

for in this Article.

- C. In order to hear and decide appeals of discretionary orders, decisions or determination made by the Building Official relative to the application and interpretation of the provisions of the Historical Building Code and alternative measures allowable thereunder, the city council may, on a case-by-case basis, either proceed as provided in subsection A or designate the Nevada City Planning Commission to act on such appeals.

15.04.040 Not used.

15.04.045 Work exempt from permit; building permits (amend).

The work exempted in paragraph 1 of section 105.2 is amended to read as follows rather than as amended by Sec. L-V 2.3 of the Nevada County Land Use and Development Code:

1. One-story detached accessory buildings without electrical, mechanical or plumbing not intended for habitation, subject to the requirements of Nevada City Municipal Code Sec. 17.80.010, provided it is less than or equal to no more than 160 square feet in area and the projected roof area does not exceed 200 square feet. One structure per parcel.

15.04.050 Work exempt from permit; building permits (add).

The work exempted in paragraph 14 of added to Section 105.2 by Sec. L-V 2.4 of the Nevada County Land Use and Development Code is amended to read as follows and that exempted in paragraph 15 added by Sec. L-V 2.5 of the Nevada County Land Use and Development Code is not adopted:

14. Detached trellis or arbor accessory to single family residential property provided it is no more than 160 square feet in area and the projected roof area does not exceed 200 square feet.

15.04.100 Savings clause.

The regulations set forth in this chapter are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to this Chapter, set forth by the State of California or elsewhere in the City's code.

Chapter 15.08

FIRESAFETY STANDARDS AND CALIFORNIA FIRE CODE AMENDMENTS

Sections:

- 15.08.005 Purpose.**
- 15.08.010 Definitions.**
- 15.08.015 California Fire Code and county amendments adopted.**
- 15.08.020 Responsibility for enforcement and review.**
- 15.08.025 Penalties.**
- 15.08.030 Board of Appeals.**
- 15.08.100 Savings clause**

15.08.005 Purpose.

This Chapter prescribing regulations governing fire prevention is enacted to provide increased protection from fire to residents and property within the city of Nevada City in conformity with the 2016 edition of the California Building Standards and consistent with and complementary to standards adopted by the County of Nevada. It is also intended to encourage a greater degree of uniformity between the local fire department and other fire protection districts and departments in the imposition of fire safety regulations on new construction and existing buildings, while respecting the autonomy of the local fire protection districts and departments. Nothing in this Code is intended to amend the provisions regarding sprinkler systems set forth in section 8.30 of the Nevada City Municipal Code.

15.08.010 Definitions.

For the purpose of this Chapter, the following terms and words used herein or in any of the codes or ordinances adopted by reference therein, unless the context directs otherwise, shall have the meaning ascribed to them by this Section:

"Board of appeals" and any other references to an appellate body in any of the uniform codes or County amendments adopted by reference by this Chapter mean such entities as may be designated by the city council of Nevada City by resolution.

"Chief", "fire chief", "city fire chief" and "chief of the fire department" mean the fire chief of the Nevada City Fire Department or his authorized designee.

"City", "agency" or "jurisdiction" means the City of Nevada City.

"Fire break" means a continuous strip of land upon which all rubbish, weeds, grass, or other growth that could be expected to burn when dry, has been abated or otherwise removed in order to prevent the surface extension of fire from one area to another.

15.08.015 California Fire Code and county amendments adopted.

Subject to the modifications and amendments contained in this Chapter, the 2016 California Fire Code and County amendments thereto were adopted by Sections 15.04.015 and 15.04.020 and incorporated into the Municipal Code of the City of Nevada City.

15.08.020 Responsibility for enforcement and review.

To clarify responsibility for enforcement and review as provided for in Nevada County Land Use and Development Coded Sec. L-V 5-4 within the City's jurisdiction:

- A. Except as otherwise required by controlling state law, enforcement of fire safety laws, standards and regulations and review of projects for compliance therewith shall be enforced within the incorporated areas of the City by the city fire chief or the authorized representative thereof.
- B. Whenever any application is made to the City for issuance of any discretionary land use permit or other land use entitlement, the City fire chief or authorized deputy, with enforcement responsibility pursuant to this Chapter, shall have the final authority and responsibility for review of such application for compliance with the requirements of this chapter. This review shall include the preparation of comments and appropriate mitigation measures and/or conditions of approval to assure compliance with all applicable fire safety laws, standards and regulations. To facilitate such review, copies of all such applications shall be promptly provided to the City fire chief or authorized deputy.

15.08.025 Appointment of fire marshal.

The amendment to the California Fire Code in sec. L-V 5.6 of Nevada County Land Use & Development Code is further amended within the City's jurisdiction to provide that the fire code official shall be appointed by the chief appointing authority of the jurisdiction and within the city's jurisdiction references to the County Fire Marshal shall refer to that appointed official.

15.08.030 Penalties.

In addition to the penalties provided for in the California Fire Code and in subsections

A and B of Sec. L-V 5.7 of the County amendments thereto are added the following:

- C. Violations of any provisions of this chapter and the 2016 California Fire Code and County and City amendments thereto shall constitute a public nuisance and said conditions may be abated in accordance with existing laws and ordinances.
- D. The remedies provided herein are not exclusive, and are in addition to any other remedy or penalty provided by law.

15.08.035 Fire Agency Appeals.

Provisions regarding appeals from determinations interpreting provisions of the California Fire Code made by the City fire chief shall be amended to read as follows rather than as amended by Sec. L-V 5.8 of the Nevada County Land Use and Development Code to supplement the basic requirements found in Section 108 the California Fire Code:

- A Appeals from decisions to approve or not to approve permits pursuant to this Chapter or determinations interpreting provisions of the California Fire Code, as amended and adopted, made by the City fire chief regarding permits within the city, may be taken to the city council or the city council may, on a case-by-case basis or for designated periods of time, create its own Nevada City Fire Code Board of Appeals to hear the appeal with members nominated by the city fire chief in accordance with the member composition provisions set forth in Section A 101.2, *et seq.*, of Appendix A of the California Fire Code, and as confirmed by the city council.
- B. In the event a Nevada City Fire Code Board of Appeals is created to hear and decide an appeal, the City fire chief, or his designee, shall be an ex-officio member and serve as secretary to the Board, but shall have no vote on any matter before the Board and the decision and findings shall be rendered to the City fire chief with a duplicate copy to the appellant.

15.08.040 Open burning additional restrictions.

In addition to restrictions on burning in the California Fire Code and County amendments as adopted by the city, open burning is further restricted by Chapter 8.08 of the Nevada City Municipal Code.

15.08.045 Auxiliary power generator.

In addition to the requirements of Sec. 605.3.3 of the California Fire Code and county amendments as adopted by the City, any new structure or remodel that has electrical power supplied by a secondary or auxiliary power unit with automatic startup and/or automatic power transfer capabilities shall have an auxiliary power disconnect

accessible to fire department personnel. The auxiliary power disconnect switch shall be located within three (3) feet of the main power disconnect switch and identified with a permanently mounted, weather proof label marked "AUXILIARY POWER DISCONNECT".

15.08.100 Savings clause.

The regulations set forth in this Chapter are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to this Chapter, set forth by the State of California or elsewhere in the City's code.