

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF ROSEVILLE AND
THE UNITED STATES FISH AND WILDLIFE SERVICE**

1. BACKGROUND

- 1.1. On May 25, 1999, the United States Fish and Wildlife Service ("Service") issued a biological opinion under a formal consultation with the Army Corps of Engineers ("Corps") regarding the effects of construction of the Pleasant Grove Wastewater Treatment Plant ("PGWTP") on the federally listed endangered vernal pool tadpole shrimp and the threatened vernal pool fairy shrimp ("vernal pool species") in accordance with section 7 of the federal Endangered Species Act ("ESA"), 16 U.S.C. section 1531 *et seq.*
- 1.2. The Incidental Take Statement ("ITS") attached to the opinion authorized incidental take associated with the direct and indirect effects of the construction of the PGWTP. The ITS, however, did not authorize incidental take resulting from operation of the PGWTP. The PGWTP will have an initial ("Phase 1") operating capacity of 12 million gallons per day; and will expand to a maximum daily operating capacity of 21 million gallons per day during Phase II operations.
- 1.3. To minimize incidental take of vernal pool species resulting from the effects of the PGWTP's operation, the City of Roseville ("City"), as part of the proposed action reviewed in the biological opinion, committed to develop and implement an interim conservation strategy and a long term habitat conservation program.
- 1.4. Through this Memorandum of Understanding ("MOU"), the City and the Service (collectively "Parties") seek to accomplish the following objectives consistent with the proposed action as described in the biological opinion and with the reasonable and prudent measures to minimize take contained in the ITS:
 - 1.4.a. To set out a process to develop an interim conservation strategy to minimize the adverse effects on federally listed species of future development serviced by Phase I operations of the PGWTP and located on lands under the City's jurisdiction.

- 1.4.b. To work cooperatively to develop a long-term Habitat Conservation Plan ("HCP") or its equivalent to minimize the effects on federally listed species of future development serviced by Phase II of the PGWTP and located in the City or other participating jurisdictions who commit to participate in the HCP or its equivalent.
- 1.5. The City is undertaking these efforts with the expectation that a number of environmental, economic and quality of life benefits will accrue to the Roseville community and surrounding areas. Accordingly, the City and the Service intend for this process to be guided by the following goals:
 - 1.5.a. Providing for the conservation of endangered and threatened species and open space while accommodating appropriate economic growth in the region.
 - 1.5.b. Establishing a process that addresses conservation issues on a comprehensive basis, rather than through piecemeal, project-by-project review.
 - 1.5.c. Achieving streamlined review and processing of state and federal permits for species and habitats through the integration of these requirements into local land use decision-making processes.
 - 1.5.d. Providing appropriate regulatory assurances to the City and other participating jurisdictions to foster certainty and predictability in the planning process.

2. DESCRIPTION OF THE PLANNING AREA

- 2.1. The planning area for the interim conservation strategy and the HCP or its equivalent will encompass that portion of the PGWTP service area within the City's boundaries as of the date this MOU is signed. (See map attached as Exhibit 1.) The Parties recognize, however, that the City's boundaries may change in the foreseeable future to include lands annexed through agreement with Placer County ("County"), in which case those annexed areas of the County are intended to be incorporated into the planning area and receive coverage under the City's Incidental Take Permit ("ITP"). Where an ITP has already been issued to the City

that does not include the annexed areas, incidental take may be authorized in the annexed areas either through amendment of the City's ITP or through other authorization under the ESA.

- 2.2. The City further agrees to initiate discussions with other jurisdictions serviced by the PGWTP to encourage their participation in the development of a long-term conservation plan and concurrence in an interim conservation strategy. If surrounding jurisdictions to be serviced by the PGWTP commit to participate in the development of the HCP or its equivalent, the planning area will be modified and the additions to the planning area treated in accordance with section 2.1. Prior to any surrounding jurisdiction receiving wastewater treatment from PGWTP under Phase 2 operations, the Service shall confirm that such jurisdiction has addressed the indirect effects of wastewater treatment provided by the PGWTP within the jurisdiction through one of the following: (1) issuance of an ITP to the jurisdiction for the area to be served by Phase 2 operations; (2) participation by the jurisdiction in an approved regional HCP or its equivalent for areas to be served by Phase 2 operations; or (3) Service concurrence that the indirect effects of Phase 2 operations within the jurisdiction have otherwise been evaluated, minimized, and mitigated in accordance with the ESA.

3. COVERED ACTIVITIES

The City intends that future public works projects, private development and other activities identified in the HCP or its equivalent will be covered under the incidental take authorizations issued by the Service to the City and to any other participating jurisdictions.

- 3.1. The City will undertake a comprehensive conservation planning process that is intended to afford future public works projects, private development and other activities take authorizations under the state and federal endangered species laws for species and activities covered by the plan.
- 3.2. The plan developed by the City is intended to specify covered activities, which will include all development within the PGWTP service area that is under the jurisdiction of the City and/or other participating jurisdictions.
- 3.3. The plan developed by the City is also intended to provide a process by which future land use projects within the PGWTP's service area will be

afforded the use of this process to meet the requirements of federal endangered species laws.

4. **FUNDING**

- 4.1. The City recognizes that the development and implementation of the interim strategy and the HCP or its equivalent will be funded primarily through locally derived sources.
- 4.2. The Service agrees to cooperate with the City in identifying and securing, where appropriate, federal and state funds earmarked for such purposes. Potential federal funding sources may include: the Service's Cooperative Endangered Species Conservation Fund, "smart growth" initiatives, and land acquisition grants or loans through other federal agencies such as the U.S. Environmental Protection Agency, the Corps, or the Departments of Agriculture or Transportation.
- 4.3. The obligation of the Service to carry out its commitments under this MOU is subject to the availability of appropriated funds.

5. **PUBLIC INVOLVEMENT**

- 5.1. The City is committed to the development of a conservation strategy through an open and participatory process. The City anticipates that the final HCP or its equivalent will be informed and shaped by the input of the public. In devising an approach to these regulatory requirements, the concerns and interests of the Roseville community must be considered and, where appropriate, accommodated in the plan.
- 5.2. The City, therefore, intends to establish a process to ensure broad public participation in the development of the conservation plans.

6. **COMMITMENT OF RESOURCES**

- 6.1. The City acknowledges that, as a prospective applicant for incidental take authorizations under federal law, it has the primary responsibility for developing a plan that meets all applicable legal requirements.
- 6.2. Subject to funding and staffing constraints, the Service agrees to provide technical and scientific advice, assistance and information, to assist the City with the timely and efficient development of the HCP or its equivalent.

- 6.3. Subject to funding and staffing constraints, the City and the Service commit to periodic staff level and policy level meetings as appropriate during development of the HCP or its equivalent. The Parties intend that informal discussions will occur on a regular and frequent basis to ensure that progress is being made.
- 6.4. Among other things, these meetings should provide a forum for free and open discussion about issues and approaches to plan development so as to ensure quick resolution or agreement.
- 6.5. By agreeing to assume the lead planning role and commit its financial and staff resources to this effort, the City intends for the conservation program to yield a number of benefits in addition to resource conservation, including greater regulatory efficiency, streamlining and certainty.

7. **PROCESS TO DEVELOP AN INTERIM STRATEGY**

- 7.1. The Parties agree to work cooperatively to establish an interim strategy to provide a basis upon which the impacts of future development on threatened, endangered, and other species of concern during Phase I operations within the City's boundaries will be addressed in an efficient, comprehensive manner, provided that take of listed federal species resulting from such development shall be authorized under ITPs or equivalent take authorizations issued by the Service.
- 7.2. The following tenets shall be incorporated into an interim conservation strategy:
 - 7.2.a. Future development in areas adjacent to preserves shall take measures to protect and, where practicable, improve the integrity of the preserve. Such measures may include providing adequate buffers, enlarging the preserve area when resources are contiguous, providing protection to the preserve through the maintenance of watershed integrity or topographical isolation, or providing connectivity between fragmented preserves.
 - 7.2.b. Development projects going forward prior to establishment of the HCP or its equivalent shall not preclude options for establishing a viable long-term preserve system. Special attention should be given to areas of high conservation value.

Some of these areas, however, may be developed in the context of the HCP or its equivalent if warranted by the overall preserve design and management strategy developed through the HCP or its equivalent. This approach will allow the City and the Service to develop an acceptable conservation strategy without any single project foreclosing critical conservation opportunities.

7.2.c. As provided in the ITS attached to the biological opinion, the City agrees to preserve all vernal pools located in preserves established by prior agreement between the City and the Service, or the City and third parties, and to establish and implement individual Operations and Maintenance plans for the management of the preserves. (A list of all such current preserves is attached as Exhibit 2.) The City further agrees to require that all projects subject to its approval, including infrastructure, avoid to the maximum extent practicable, direct and indirect effects to the preserves unless the Parties agree otherwise.

7.3. To accomplish the foregoing objectives, the Parties intend for the interim conservation strategy to be developed in a timely manner, consistent with the following process and milestones:

7.3.a. Identification of future planned development and infrastructure activities within the City that will be serviced by Phase I of the PGWTP (to be completed 30 days from the signing of this MOU).

7.3.b. Identification and mapping of existing, including City permitted, vernal pool resources within the plan area (to be completed 30 days from the signing of this MOU).

7.3.c. Establishment of species and habitat conservation goals and objectives (to be completed by September 2000).

7.3.d. Development of a framework under which take resulting from projects proposed prior to issuance of ITPs or their equivalent by the Service may be authorized in a streamlined and efficient manner consistent with the goals and objectives of the conservation strategy and with federal law, including the ESA and NEPA. Projects going forward prior to establishment of an HCP or its equivalent shall not preclude options for establishing

a viable long-term preserve system. Among the options to be considered by the Parties is the use of a programmatic section 7 consultation between the Service and the Corps (to be completed by September 2000). During development of the above interim framework, the Parties commit to ongoing discussions regarding projects proposed within the City.

7.3.e. Development of individual operations and maintenance plans for each vernal pool preserve established through the interim conservation strategy and for each existing vernal pool preserve established by prior agreement between the City and the Service, or the City and any third party, that is not currently subject to a management plan (intended to be completed by September 2000 subject to review and approval by the Corps).

7.3.f. Initiation of discussions by the Service and the City with other jurisdictions served by the PGWTP to ascertain opportunities for collaboration to jointly develop both an interim conservation strategy and an HCP or its equivalent. The City has already entered into discussions with Placer County to explore the feasibility of coordinating the Placer Legacy Program with the City's planning efforts.

8. PROCESS TO DEVELOP AN HCP OR ITS EQUIVALENT

8.1. The City agrees to develop an HCP or its equivalent to address the indirect effects of the operation of the PGWTP on federally listed species.

8.2. The Parties intend for this HCP or its equivalent to satisfy the requirements of the ESA, NEPA and other applicable federal laws. To the extent allowed under law, the parties intend that the mitigation and minimization measures required under the approved HCP and ITP be adopted by the Service and made consistent with and incorporated into future section 7 consultations between the Service and the Corps regarding impacts to species covered by the HCP or its equivalent.

8.3. The City intends to develop an HCP or its equivalent that addresses the needs of vernal pool species and other species listed under federal endangered species law, as well as proposed, candidate, sensitive or other species of concern occupying habitats within the plan area.

- 8.4. The City further intends that this HCP or its equivalent will satisfy requirements under the California Endangered Species Act (CESA), Fish and Game Code section 2050 et seq., the Natural Community Conservation Planning Act (NCCP Act), Fish and Game Code section 2800 et seq., the California Native Plant Protection Act, Fish and Game Code section 1900 et seq., and California Fish and Game Code section 1600 et seq.
- 8.5. The City will continue to explore the feasibility of developing its HCP, or its equivalent, in coordination and collaboration with the Placer County Legacy Program, which may produce a plan consistent with both the ESA and the NCCP Act. Should the City and County deem such relationship to be mutually beneficial, the City may seek to obtain NCCP authorizations from the Department of Fish and Game as well.
- 8.6. The Parties further intend to work with the Corps and the U.S. Environmental Protection Agency to optimize opportunities to streamline the process for issuance of permits under section 404 of the Clean Water Act for those projects that are in conformance with an approved HCP or its equivalent and the incidental take authorizations issued by the Service.
- 8.7. To accomplish the foregoing objectives, the Parties commit to establish a schedule and process to complete development of the HCP or its equivalent. The Parties intend for the schedule to be developed in a timely manner, with milestones established at the outset of the process.

9. REGULATORY ASSURANCES

The Parties intend that the Service will provide regulatory assurances consistent with its statutory authorities upon issuance of an ITP by the Service. For example, if the City develops an HCP that meets the criteria for issuance of an ITP under Section 10 of the ESA, the City will receive those assurances identified in the "no surprises" regulations of the U.S. Department of the Interior at 50 C.F.R. 17.22(b)(5) and 17.32(b)(5) for all species adequately covered under the HCP upon approval of the plan and issuance of an ITP by the Service.

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IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding effective as of the last date set forth below.

UNITED STATES FISH AND WILDLIFE SERVICE, an agency of the Department of the Interior of the United States of America

By: Cary C. Mondr

Title: Asst. Field Supervisor

Date: Aug 18, 2000

CITY OF ROSEVILLE, a political subdivision of the State of California

By: [Signature]

Title: City Manager

Date: May 17, 2000

RESOLUTION NO. 00-197

APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN CITY OF ROSEVILLE AND UNITED STATES FISH AND WILDLIFE
SERVICE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE IT ON BEHALF
OF THE CITY OF ROSEVILLE

WHEREAS, a memorandum of understanding relating to the preparation of a habitat conservation plan, between the City of Roseville and U.S. Fish and Wildlife Service, has been reviewed by the City Council;

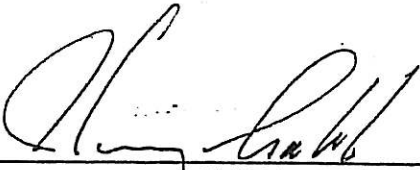
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Roseville that said memorandum of understanding is approved and that the City Manager is authorized to execute it on behalf of the City of Roseville.

PASSED AND ADOPTED by the Council of the City of Roseville this 17th day of May, 2000, by the following vote on roll call:


AYES COUNCILMEMBERS: Earl Rush, Dan Goodhall, Claudia Gamar, Randolph Graham, Harry Crabb

NOES COUNCILMEMBERS: None

ABSENT COUNCILMEMBERS: None


MAYOR

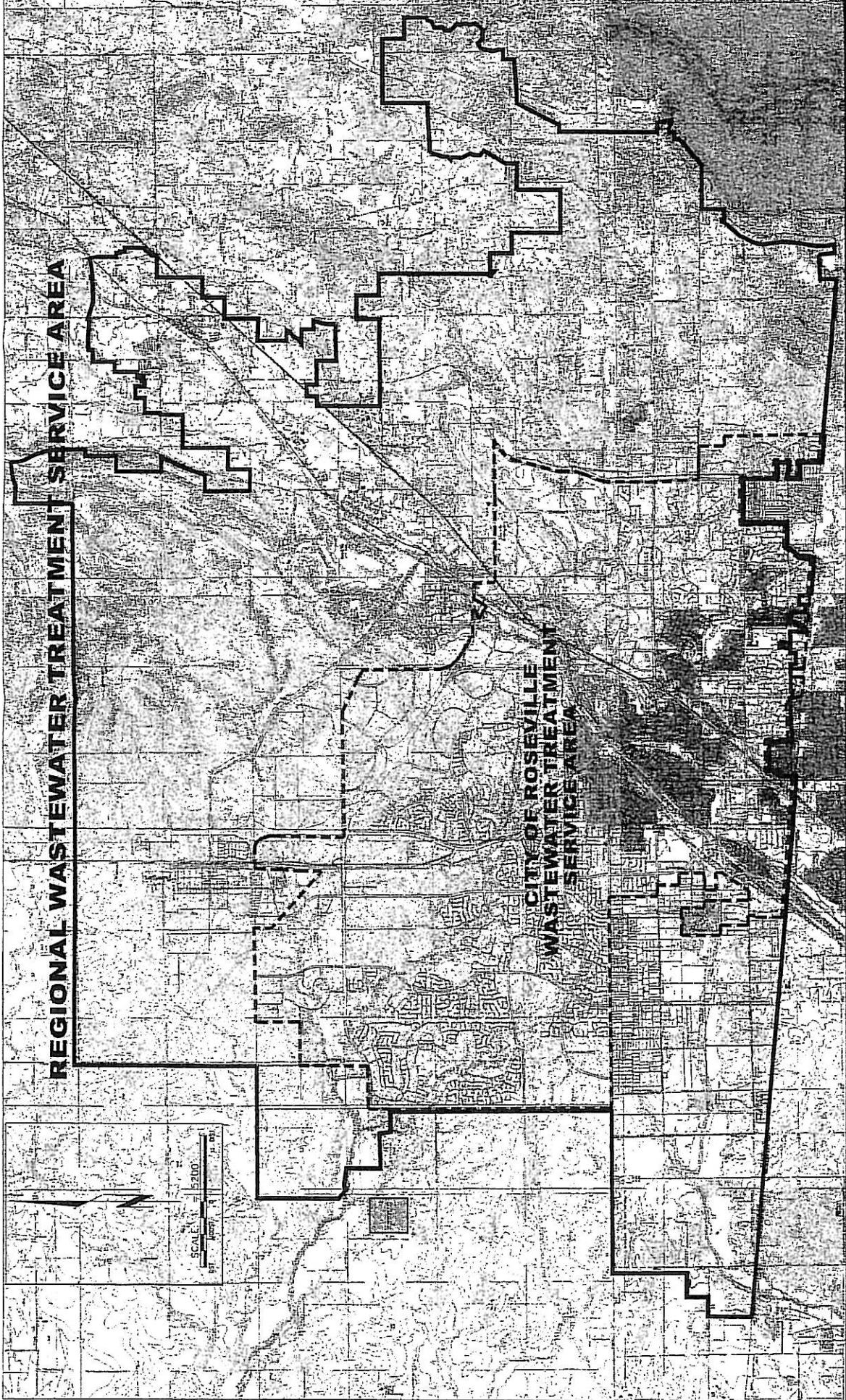
ATTEST:


City Clerk

The foregoing instrument is a correct copy of the original on file in the City Clerks Department.

ATTEST:
City Clerk of the City of Roseville, California

DEPUTY CLERK



REGIONAL WASTEWATER TREATMENT SERVICE AREA

**CITY OF ROSEVILLE
WASTEWATER TREATMENT
SERVICE AREA**


SCALE
1" = 5000'
0' 1000' 2000' 3000' 4000' 5000'

----- City of Roseville Corporate Boundary


Map prepared by City of Roseville Environmental Utilities Dept.
 Rebased by City of Roseville Planning Dept. (6/2003, Aug 7, 2009)
 File Name: c:\data\utilities\rebase\area_03\132001.dwg, 06/07/03

APRIL 2000

EXHIBIT 1


City of Roseville
City
Vernal Pool
Preserves
April 5, 2000

★ Final Operation and Management Plan still pending. City has been designated as Preserve Manager.


 SCALE: 1" = 3300'
 City of Roseville Planning Department
 Map prepared by D Moss April 5, 2000
 and updated by jay@roseville.ca.gov 4/2000.dwg

City of Roseville Interim
 Conservation Strategy

Exhibit 2

