

Resolution No. **05-0493**

STOCKTON CITY COUNCIL

RESOLUTION APPROVING THE DELTA WATER SUPPLY PROJECT, PHASE ONE;
ADOPTING A MITIGATION MONITORING AND REPORTING PLAN, CEQA
FINDINGS, AND A STATEMENT OF OVERRIDING CONSIDERATIONS RELATING
THERETO; AND DIRECTING CITY STAFF TO PROCEED WITH THE
PROCUREMENT OF THE PROJECT, OBTAINING FINANCING AND SECURING
PERMITS NECESSARY TO PROCEED WITH THE PROJECT

WHEREAS, in Resolution No. 05-0492, adopted on November 8, 2005, which is incorporated by reference herein, the City Council of the City of Stockton certified that the Final Environmental Impact Report ("FEIR") prepared for the Delta Water Supply Project ("DWSP") has been completed in compliance with CEQA; that the City Council had reviewed and considered the information and analysis contained in the FEIR; and that the FEIR reflects the City Council's independent judgment; and

WHEREAS, alternatives to the DWSP that were evaluated in the Draft EIR ("DEIR") included the following, SEWD Expanded Water Supply and Expanded Water Treatment Plant (WTP), In-Delta Storage Project, MORE Water Project, Eastern Water Alliance Regional Water Supply Project, Farmington Groundwater Recharge Project, New Hogan Reservoir Re-Operations, Other Local Water Supplies, Water Transfers, Aggressive Water Conservation, Aggressive Water Recycling, Honker Cut intake location, Wright Elmwood Tract intake location, Site A WTP location, Site B WTP location, Site D WTP location and No Project; and

WHEREAS, the City Council wishes to select the Delta Water Supply Project, Phase One, as proposed by staff and described in the FEIR at Chapter 2, including the in-bank intake structure, to be located on the southwest tip of Empire Tract, south bank, the proposed pipeline alignments and the Site A WTP location (hereinafter "the Project"); and

WHEREAS, the FEIR identified certain significant effects on the environment that, absent the adoption of mitigation measures, would be caused by the construction and operation of the Project; and

WHEREAS, the City Council is required, pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000, et seq.) and the "CEQA Guidelines" (14 CCR § 15000, et seq.), to adopt all feasible mitigation measures or a feasible project alternative that can substantially lessen or avoid any significant effects on the environment associated with a project to be approved, such as the Project; and

WHEREAS, as the Findings of Fact adopted as Exhibit A to this Resolution demonstrate, all of the significant effects on the environment associated with the Project can be either substantially lessened or avoided through the adoption of feasible

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mitigation measures, although some of these effects will remain significant and unavoidable despite the adoption of all feasible mitigation measures; and

WHEREAS, because all significant effects on the environment associated with the Project have been at least substantially lessened through feasible mitigation, the City Council need not consider the feasibility of alternatives, as set forth in the FEIR, that will be less environmentally damaging than the Project with respect to the unavoidable significant effects associated with the Project; and

WHEREAS, the City Council has nevertheless decided, for purposes of full disclosure to its constituents, to address both the extent to which alternatives may be environmentally superior with respect to the significant unavoidable effects of the Project, and the extent to which such alternatives may be "feasible" within the meaning of CEQA and CEQA case law; and

WHEREAS, the City Council has determined, for reasons set forth in findings found in Exhibit A hereto, that each alternative, including the No Project Alternative, as described in the FEIR, either is not environmentally preferable, is infeasible, fails to meet the City's objectives, or some combination of these factors; and

WHEREAS, the City is required by Public Resources Code section 21081.6, subdivision (a)(1), and CEQA Guidelines section 15097 to adopt a Mitigation Monitoring and Reporting Plan, adopted as Exhibit B to this Resolution, to ensure that the mitigation measures adopted by the City are carried out; and

WHEREAS, mitigation for each of those impacts identified as significant in the DEIR will be performed and monitored by the City pursuant to the Mitigation Monitoring and Reporting Plan; and

WHEREAS, because the adopted mitigation measures have not mitigated all identified significant effects on the environment associated with the Project to less than significant levels, CEQA requires the City to adopt a Statement of Overriding Considerations, which is included as Section 4 of Exhibit A attached hereto; and

WHEREAS, the City Council now determines it appropriate to approve the findings and other statements provided for herein, to approve the Project and to authorize City staff to take certain additional actions specified below, including the preparation and filing of a Notice of Determination; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. That the City Council hereby finds the above recitals to be true and correct.
2. That the City Council hereby approves the Delta Water Supply Project, Phase One, as proposed by staff and described in the FEIR at Chapter 2, including the in-bank intake structure, to be located on the southwest tip of Empire Tract, south bank, the proposed pipeline alignments and the Site A WTP location.

3. In accordance with CEQA Guidelines sections 15091, 15092, and 15093, the City Council finds that the significant environmental effects of the Project will be mitigated to less than significant levels by the mitigation measures adopted by the City, with the exception of certain impacts to farmland, scenic and visual resources, light and glare, short-term emissions of air pollutants associated with project construction and secondary effects associated with planned urban growth as described in the 1990 Stockton General Plan and associated EIR, which, though substantially lessened by adopted feasible mitigation measures, are nevertheless still considered significant and unavoidable.

4. The City Council hereby makes and adopts CEQA Findings as contained in Exhibit A hereto.

5. The City Council hereby adopts a Statement of Overriding Considerations, as contained in Section 4 of Exhibit A hereto, explaining how the benefits of the Project in providing an additional surface water supply to supplement declining and less reliable surface water supplies and reducing the COSMA's dependence on ground water provide substantial environmental benefits, among other considerations, justify the Project's significant and unavoidable impacts.

6. The Mitigation Measures and Mitigation Monitoring and Reporting Plan included in Exhibit B hereto are approved.

7. The City Council hereby directs City staff to proceed with (i) obtaining financing for the Project, (ii) obtaining permits and other agency approvals necessary to proceed with construction of the Project; (iii) selecting a procurement methodology, process and schedule in accordance with Article XX of the City Charter; and (iv) arranging for the design and construction of the Project, which shall be monitored by an oversight committee to be appointed by the Mayor.

8. The City Council further directs City staff to bring back for the City Council's consideration the following additional approvals at such time as it is appropriate for the City to take these further actions to proceed with the Project:

- Approval of the financing plan and any required grants, loans, bonds or other financing specifics;
- Approval of the construction contract(s) staff has negotiated pursuant to paragraph 7, above; and
- Authorization to acquire any interests in land necessary to the project.

9. Though these additional approvals by the City will take place later in time during the development of the Project, the findings attached as Exhibit A hereto also constitute the City's compliance with Public Resources Code section 21081, subdivision (a), and CEQA Guidelines section 15091, subdivision (a), with regard to those actions. Furthermore, such actions can be implemented based on the certified FEIR, which was prepared with all such actions in mind. By adopting this Resolution, including Exhibit A

attached hereto, the City has satisfied its obligations pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091, in that Exhibit A (i) identifies all feasible mitigation measures that can substantially lessen or avoid the significant effects on the environment associated with the Project and (ii) explains why the project alternatives cannot feasibly and adequately satisfy the purposes and needs of the City. Notwithstanding the above, expansion of the Project through future phases will be the subject of further environmental review.

10. By adopting this Resolution, including Section 4 of Exhibit A attached hereto, the City has satisfied its obligation pursuant to Public Resources Code section 21081, subdivision (b), which requires the issuance of a Statement of Overriding Considerations whenever a project's environmental effects cannot be mitigated to less than significant levels.

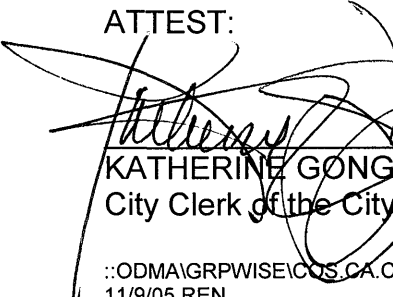
11. Through this Resolution, which incorporates by reference and adopts the Mitigation Monitoring and Reporting Plan included attached as Exhibit B hereto, the City has satisfied its obligations pursuant to Public Resources Code section 21081.6, subdivision (a)(1).

12. The City Council further authorizes City staff to prepare and file a Notice of Determination within five working days following the date of adoption of this Resolution with the County Clerk of the County of San Joaquin and with the State of California, and directs that copies of the FEIR be retained at the administrative offices of the City for public review.

13. Pursuant to Public Resources Code section 21081.6, subdivision (a)(2), and CEQA Guidelines section 15091, subdivision (e), the City Clerk is the custodian of the documents and other material that constitute the record of proceedings upon which the City of Stockton City Council's decision is based, and such documents and other material are located at 425 North El Dorado Street, Stockton, California 95202.

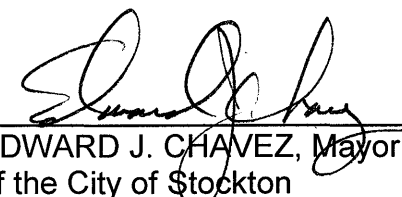
PASSED, APPROVED and ADOPTED NOV 8 2005.

ATTEST:


KATHERINE GONGMIN
City Clerk of the City of Stockton



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EDWARD J. CHAVEZ, Mayor
of the City of Stockton