

**STAFF REPORT
C55**

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08/17/17
W 24246
R. Collins

GENERAL LEASE – OTHER

APPLICANT:

San Joaquin River Parkway and Conservation Trust, Inc.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River, adjacent to Assessor's Parcel Number 579-020-09, near Fresno, Fresno County.

AUTHORIZED USE:

Construction, use, and maintenance of an aluminum gangway, floating boat dock, and 2 stainless steel dock anchors.

LEASE TERM:

10 years, beginning August 17, 2017.

CONSIDERATION:

\$125 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Within 60 days of completion of construction, Lessee shall provide the Commission a set of as-built drawings and revised Exhibits A and B describing the as-built location of the authorized improvements. The revised Exhibits A and B shall be incorporated into the Lease and shall supersede corresponding Exhibits upon review and written approval by the Commission's Executive Officer or designee.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code Sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5 California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

The San Joaquin River Parkway and Conservation Trust, Inc., (Trust) was created in 1988 to establish a continuous greenbelt along 33 miles of river in the rapidly urbanizing Fresno-Madera region. The Parkway reach of the

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San Joaquin River is anchored on the upstream end at Millerton Lake State Recreation Area and Friant Dam; on the downstream end it is anchored at Skaggs Bridge Park at State Highway 145. The Trust's mission is to preserve and restore San Joaquin River lands having ecological, scenic, or historic significance to educate the public on the need for stewardship, to research issues affecting the river, and to promote educational, recreational, and agricultural uses consistent with the protection of the river's resources. In partnership with state and federal agencies and local governments, the Trust has been successful in protecting San Joaquin River landscapes through fee title acquisition, conservation easements, and wildlife habitat restoration. The Trust undertakes projects to provide public access to the river and implement the Parkway's multiple use Lewis S. Eaton Trail. In addition, the Trust provides outdoor education programs for youth and recreational opportunities for the community.

The upland parcel adjacent to the proposed lease area, known as the Owl Hollow Property, consists of approximately 6 riverfront acres and was acquired by the Trust in 2005. The Owl Hollow Property Improvement Project (Project) is a cooperative project with the San Joaquin River Conservancy with development funds provided by Proposition 84 and private contributions. The Project proposes to construct park improvements along the San Joaquin River to be used for public outreach, recreation, and education. Park improvements would include an aluminum gangway, floating boat dock, outdoor amphitheater, picnic tables, shade structure, vault restroom, access road, turf area, and landscaping.

Only the aluminum gangway, floating boat dock, and stainless steel dock anchors will occupy sovereign land. The 5-foot-wide aluminum gangway will be anchored on the upland and will connect to an approximately 40-foot-long by 19-foot-wide floating boat dock made of high-density polyethylene resin cubes. The dock will be stabilized with two stainless steel dock anchors tied to concrete piers also located on the upland.

The Owl Hollow Property is surrounded by an active sand and gravel mine and access is provided by easement. Visitors will park at the Trust's existing Coke Hallowell Center for River Studies, approximately one-half mile southeast of the Project site and be transported to and from the park by Trust employees. The Project site is readily accessible by boat and will provide a much-needed rest stop for kayakers and canoeists on the river. The site will also be used during the summer for the Trust's river camp day program and occasionally during the school year for school field trips. The Trust began offering public canoe tours in 1988 to inspire support for

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the San Joaquin River Parkway effort. The Trust continues to serve thousands of people every year with guided river tours. The Trust intends to include Owl Hollow Park as a main attraction in their public outreach, recreation, and educational programs.

The proposed park improvements directly promote Public Trust needs and values. They accommodate, promote, and support recreational boating, fishing, public access, and enjoyment of the State's sovereign land. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. Further, the California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Public Resources Code section 6503.5).

Climate Change:

The project area is not tidally influenced and, therefore, would not be subject to sea-level rise. However, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Due to these potential changes, the stainless steel dock anchors could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. The floating boat dock and gangway will be adaptable to variable water levels, allowing it to rise and fall with storms and droughts and increasing their resiliency to some climate change impacts, but it may require more frequent maintenance or replacement to ensure continued function during and after storm seasons or to avoid dislodgement. Regular maintenance, as required by the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Conclusion:

For all the reasons above, Commission staff believes that the proposed lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

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OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to protect, expand, and enhance public use and access to and along the State's inland and coastal waterways.

2. A Mitigated Negative Declaration was prepared by Fresno County and adopted on October 20, 2011, for this project (State Clearinghouse No. 2014089019). Commission staff has reviewed this document.

Mitigation Measures were made a condition of project approval by Fresno County.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the California Environmental Quality Act (CEQA) review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

Fresno County
California Department of Fish and Wildlife

FURTHER APPROVALS REQUIRED:

Central Valley Flood Protection Board
California Department of Public Health
San Joaquin Valley Air Pollution Control District
State Water Resources Control Board

EXHIBITS:

- A. Land Description
- B. Site and Location Map
- C. Mitigation Monitoring Program

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration was prepared and adopted, and mitigation measures were made a condition of project approval, by Fresno County on October 20, 2011, for this Project (State Clearinghouse No. 2014089019) and that the Commission has reviewed and considered the information contained therein; that in the Commission's independent judgement, the scope of activities to be carried out under the lease to be issued by this authorization has been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or the State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impact has occurred; and, therefore, no additional CEQA analysis is required.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location at this time or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Other to the San Joaquin River Parkway and Conservation Trust, Inc., beginning August 17, 2017, for a term of 10 years, for the construction, use, and maintenance of an aluminum gangway, floating boat dock, and two stainless steel dock anchors as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$125 with an annual Consumer Price Index Adjustment; liability insurance in an amount no less than \$1,000,000.

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2. Authorize the Executive Officer, or designee, to replace Exhibit A and B in the Lease upon review of as-built plans if the as-built location of the improvements differ from the design location.

EXHIBIT A

W 24246

LAND DESCRIPTION

One parcel of submerged land situated in the bed of the San Joaquin River, lying adjacent to Lot 12 of fractional Section 3, Township 12 South, Range 4 East, M.D.B.&M., as shown on Official Government Township Plat approved June 26, 1874, County of Fresno, State of California, more particularly described as follows:

All those lands underlying a proposed floating boat dock, gangway, and two stainless steel dock anchors lying adjacent to that parcel described in Grant Deed recorded November 16, 2004 as Document Number 2004-0256332 in Official Records of Fresno County.

TOGETHER WITH any applicable impact area.

EXCEPTING THEREFROM any portion lying landward of the ordinary low water mark of the left bank of the San Joaquin River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

This description is based on Applicant provided design plans for a proposed pier, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 03/24/2017 by the California State Lands Commission Boundary Unit.



SAN JOAQUIN RIVER

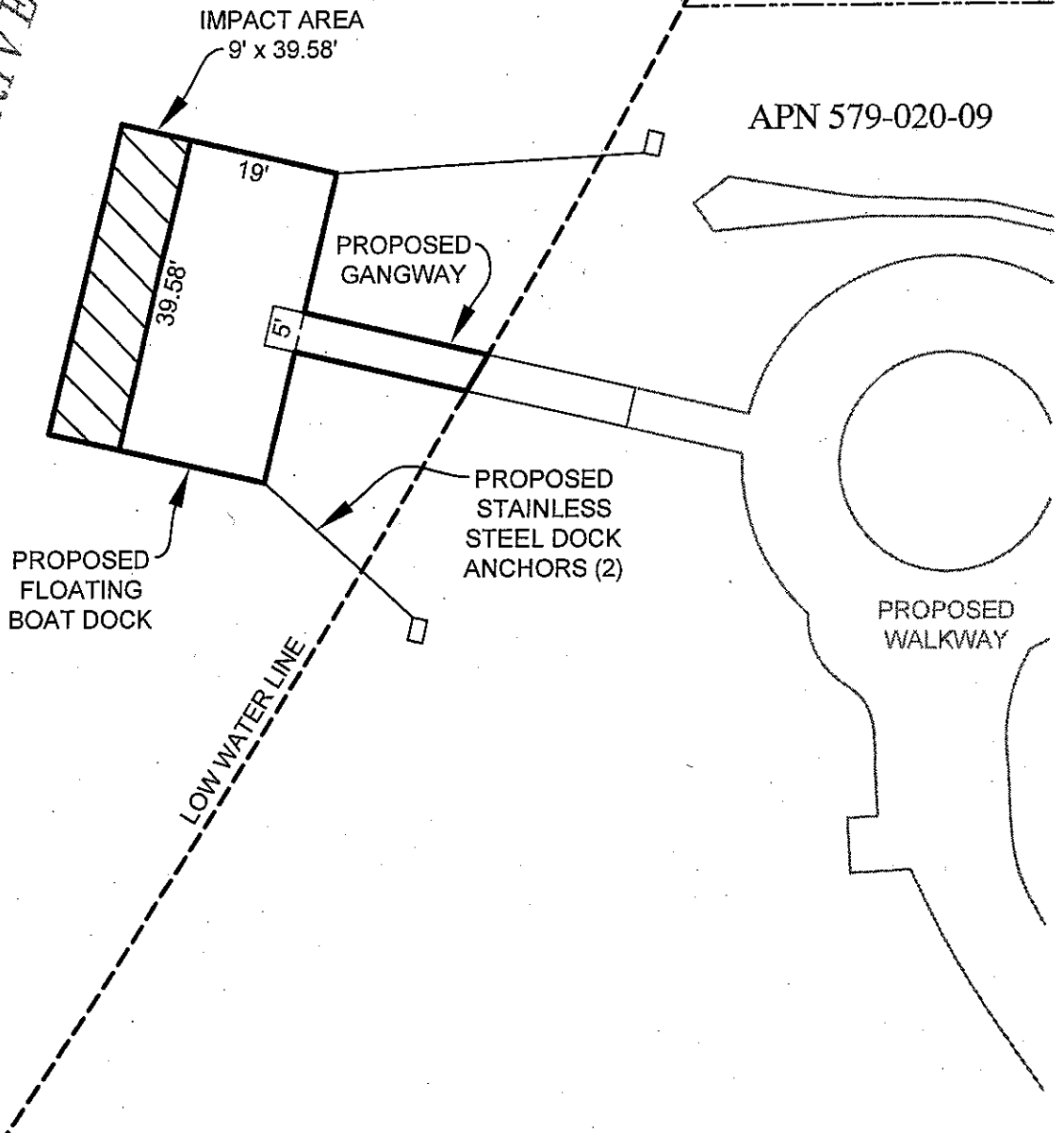


EXHIBIT A

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LAND DESCRIPTION PLAT
W 24246, SAN JOAQUIN RIVER
PARKWAY & CONSERVATION TRUST
FRESNO COUNTY

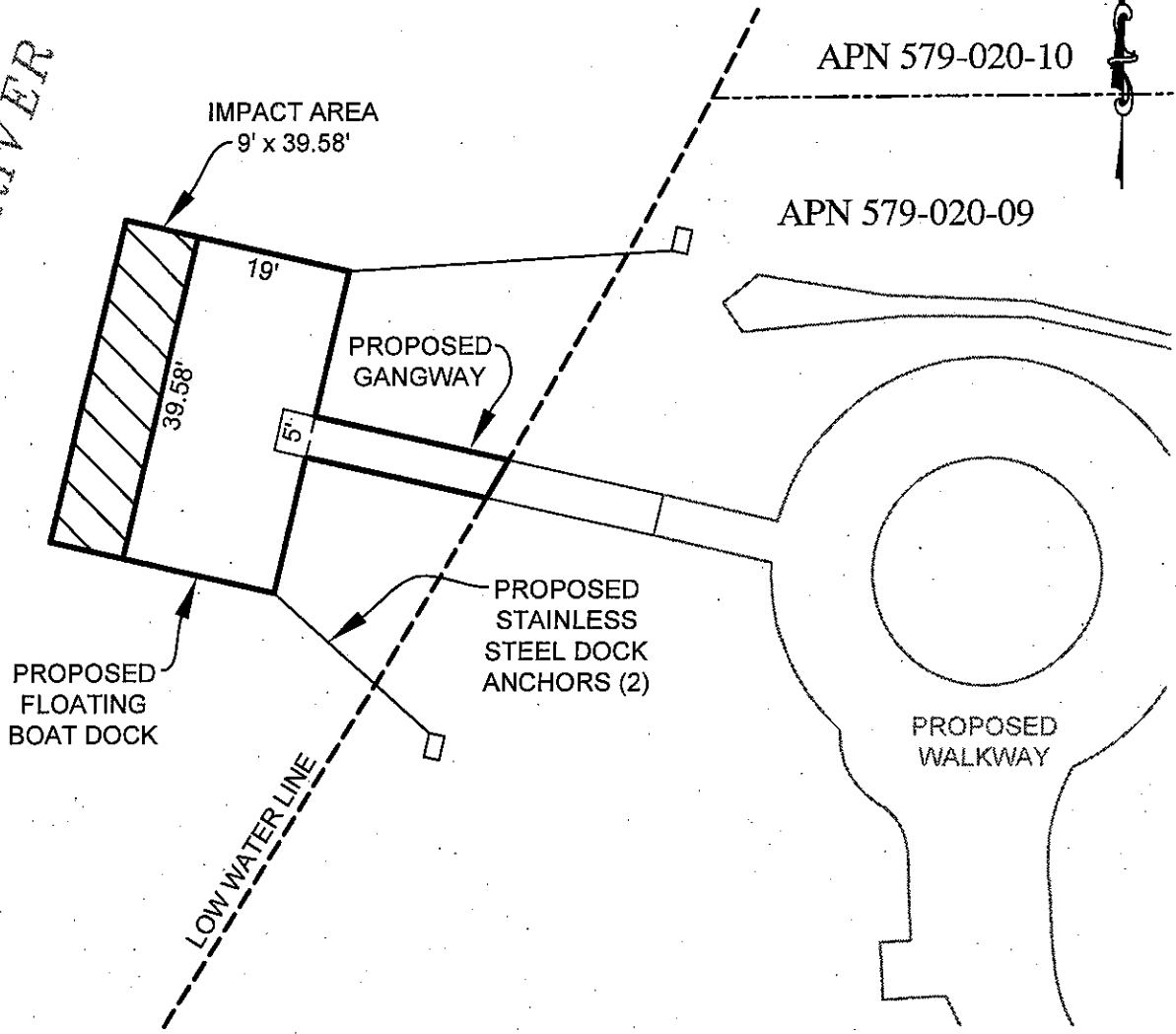
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

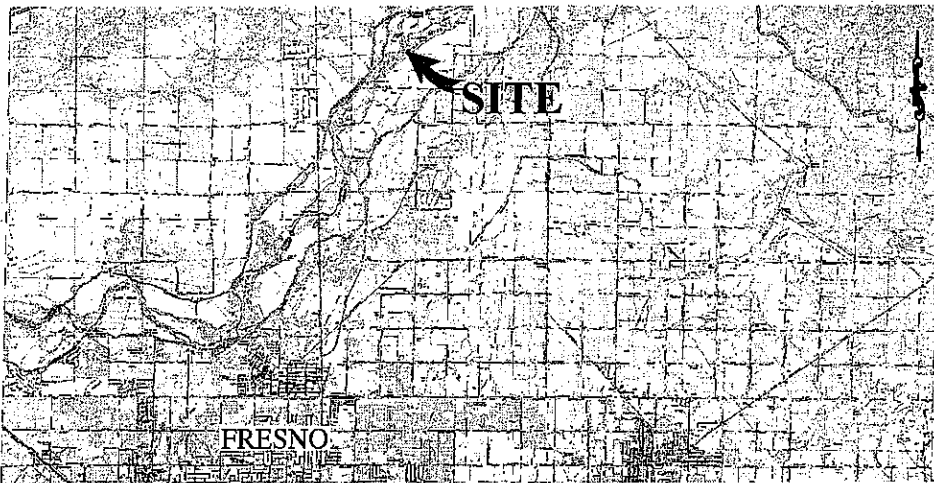
SAN JOAQUIN RIVER



OWL HOLLOW PROPERTY, NEAR FRESNO

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 24246

SAN JOAQUIN RIVER
PARKWAY & CONSERVATION
TRUST, INC.

APN 579-020-09
GENERAL LEASE -
OTHER

FRESNO COUNTY



RGB 03/24/17

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM
SAN JOAQUIN RIVER PARKWAY, OWL HOLLOW IMPROVEMENTS
(UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3275)
(W24246, State Clearinghouse No. 2014089019)

The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the San Joaquin River Parkway, Owl Hollow Improvements (Unclassified Conditional Use Permit Application No. 3275) (Project). The CEQA lead agency for the Project is Fresno County.

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to discuss feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). State CEQA Guidelines section 15097, subdivision (a), states in part:¹

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The lead agency has adopted an MND; State Clearinghouse No. 2014089019, and adopted mitigation measures for the whole of the Project (see Attachment C-1) and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. The full text of each mitigation measure, as set forth in the MMP prepared by the CEQA lead agency and listed in Table C-1, is incorporated by reference in this Exhibit C. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the mitigation measure are underlined.

¹ The State CEQA Guidelines are found at California Code of Regulations, title 14, section 15000 et seq.

- Deletions of the text of the mitigation measure are shown as ~~strikeout~~ or as otherwise noted.

Table C-1. Project Impacts and Applicable Mitigation Measures

Potential Impact	Mitigation Measure (MM) ²	Difference Between CSLC MMP and Lead Agency MMP
Cultural Resources	Cultural-1	See below

Mitigation Measure Cultural 1: In the event that cultural resources are unearthed during grading activity; all work shall be halted in the area of the find, and an Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are determined to be Native American, the Coroner must notify the Native American Commission within 24 hours.

Commission staff shall be notified of any significant cultural resources or paleontological specimens discovered on lands under the jurisdiction of the Commission. The final disposition of archaeological and historical resources and paleontological specimens from such lands must be approved by the Commission.

If the human remains are Native American and are found on lands under the jurisdiction of the Commission, Commission staff shall also be notified to address any landowner responsibilities.

² See Attachment C-1 for the full text of each MM taken from the MMP prepared by the CEQA lead agency.

ATTACHMENT C-1
Mitigation Measures Adopted by
Fresno County



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER
DIRECTOR

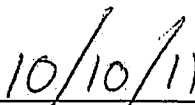
MITIGATION MEASURES Initial Study Application No. 6168 Unclassified Conditional Use Permit Application No. 3275

The following mitigation measures have been specifically applied to mitigate potential adverse environmental effects identified in the Evaluation of Environmental Impacts document. A change in these provisions may affect the validity of the current environmental document, and a new or amended environmental document may be required. These mitigation measures must be included as project conditions and be identified with an asterisk (*) so they can be readily identified as mandatory mitigation measures for this project.

- *1. All outdoor lighting shall be hooded and directed so as to not shine towards adjacent properties and public streets.
- Cultural-1** *2. In the event that cultural resources are unearthed during grading activity, all work shall be halted in the area of the find, and an Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are determined to be Native American, the Coroner must notify the Native American Commission within 24 hours.
- *3. Tree plantings shall be placed as far upland as is reasonably possible for site development and shall result in tree rows that are parallel with the river flow and shall not result in tree rows which are perpendicular to flood flows.
- *4. The applicant shall at all times maintain the volume level of the outdoor sound amplification system in compliance with the Fresno County Noise Ordinance, Section 8.40.040 Exterior Noise Standards.



Sharon Weaver, Applicant Representative



Date

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DEVELOPMENT SERVICES DIVISION