EAST CONTRA COSTA COUNTY
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)

EXECUTIVE GOVERNING COMMITTEE

REGULAR MEETING

Date: Wednesday, November 8, 2006

Time: 5:30 p.m. to about 7:00 p.m.

Location: City of Pittsburg City Hall
Council Chambers, 3rd Floor
65 Civic Drive, Pittsburg

Agenda

1) Introduce Executive Governing Committee ("EGC") members, staff, and any members of the public.

2) Public comment on items that are not on the agenda (public comment on items on the agenda will taken with each agenda item).

3) Approve Meeting Report for April 12, 2006.

4) Updates and status reports:
   a) Brief verbal status report on the overall HCP/NCCP Planning effort, including discussion of timeline and next steps.

5) Consider the following budget items:
   a) Approve revised HCPA Budget.
   b) Consider authorizing staff to amend contract with Jones and Stokes to extend contract term to March 31, 2007 and to increase overall contract limit by $2,975, from $1,318,688 to $1,321,662 to cover the cost of creating compact disks containing the Final HCP/NCCP documents. Authorize staff to continue to increase the interim payment limit for the Jones and Stokes contract up to the contract limit as sufficient funds are deposited in the HCPA account.
   c) Consider authorizing staff to amend contract with Resources Law Group to extend contract term to March 31, 2007 and to increase overall contract limit by $30,000 from $155,000 to $185,000 for additional legal support, including additional assistance with wetlands permitting Agreement and the Joint Exercise of Powers Agreement to form the East Contra Costa County Habitat Conservancy.
   d) Ratify invoices submitted by Jones and Stokes and the Resources Law Group and paid by the HCPA Treasurer.

6) Discussion and action on the Final HCP/NCCP.
   a) Consider accepting a report from the HCPA Coordination Group on the Final HCP/NCCP. The Coordination Group is scheduled to meet at 1 p.m. on November 8, 2006 on this matter.

b) Consider certifying the Final Environmental Impact Report for the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan.
c) Consider adopting Findings and a Mitigation Monitoring and Reporting Plan pursuant to the requirements of CEQA.
d) Consider approving the East Contra East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP) for submission to the City Councils of the Cities of Brentwood, Clayton, Oakley, and Pittsburg, the Contra Costa County Board of Supervisors, and the East Bay Regional Park District Board of Directors and consider a recommendation to these entities on approving the HCP/NCCP.

7) Discuss the Draft Joint Exercise of Powers Agreement to form the East Contra Costa County Habitat Conservancy.

8) Adjourn.

If you have questions about this agenda or desire additional meeting materials, you may contact John Kopchik of the Contra Costa County Community Development Department at 925-335-1227.

The HCPA will provide reasonable accommodation for persons with disabilities planning to participate in this meeting who contact staff at least 72 hours before the meeting.

EAST CONTRA COSTA COUNTY
HABITAT CONSERVATION PLAN ASSOCIATION
Executive Governing Committee
Draft Meeting Record
April 12, 2006

INTRODUCTION

The East County Habitat Conservation Plan Association (HCPA) Executive Governing Committee (EGC) met on Wednesday, April 12, 2006, 5:30 p.m. in the City of Pittsburg Office Building. In attendance were EGC Representatives from City of Brentwood (Council Member Ana Gutierrez), City of Clayton (Council Member Gregg Manning), City of Pittsburg (Council Member Will Casey), Contra Costa Water District (CCWD) (Vice President Elizabeth Anello and Director Bette Boatmun, alternate), City of Oakley (Council Member Bruce Connelley) East Bay Regional Park District (EBRPD) (Director Ted Radke) and County Board of Supervisors (Supervisor Mary Piepho).

1) **Introduce Executive Governing Committee ("EGC") members, staff, and any members of the public.**

2) **Public Comment**.

   No statements were made under public comment.

3) **Approve Meeting Report for October 27, 2005.**

   The meeting report was unanimously approved as presented (6-0).

4) **Updates and status reports:**

   a) **Brief verbal status report on the overall Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP) planning effort, including discussion of timeline and next steps.**

   Mr. Kopchik gave an overview of the public review process that has taken place for the HCP/NCCP and EIR/EIS. The draft documents were issued for public review in June 2005. The public review period is closed and 18 comment letters were received. Responses have been prepared. The documents are being finalized and staff expect to come back to the EGC to consider approval of the final documents the late summer or fall of 2006. Following adoption by the EGC, the cities, the County, the Flood Control District, and EBRPD would each consider approving the HCP/NCCP and approving an Implementing Agreement, and those agencies that will form the Implementing Entity would consider approving a joint exercise of powers agreement. Once formed, the Implementing Entity would also consider approving the HCP documents and the Implementing Agreement. Once all of these steps have taken place, the United States Fish

and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) would consider approving the Implementing Agreement and issuing permits to the local agencies consistent with the terms of the HCP/NCCP. The cities and the County will subsequently need to adopt an implementing ordinance to put the HCP/NCCP fees and procedures into effect.

The EGC asked about the nature of the comments received. Mr. Kopchik provided an overview of the types of comments received. Some of the comments contain a number of detailed suggestions for revising provisions of the HCP/NCCP. Other comments related to the aspects of the plan that address future modification to the urban limit line and some comments requested changes based on the city urban limit lines approved in November. There were also comments regarding the commitments to protect certain species and in response, staff conducted additional field reconnaissance and made modifications to the final plan.

5) Consider the following budget items:

a) Approve revised HCPA Budget.

Mr. Kopchik reviewed the grant funding efforts and indicated that an additional $70,000 of federal funding had been committed to the project. HCPA staff recommends that the additional revenues be used to offset increased costs of developing the wetlands permitting approach and other expenses related to final development of the plan. The EGC unanimously approved revision of the HCPA budget (6-0).

b) Consider authorizing staff to amend contract with Jones and Stokes to extend contract term to December 31, 2006 and to increase overall contract limit by $30,000, from $1,288,688 to 1,318,688 for additional support on wetlands permitting, on finalizing an educational booklet, on assisting with the Biological Opinion for the HCP and on other matters. Authorize staff to continue to increase the interim payment limit for the Jones and Stokes contract up to the contract limit as sufficient funds are deposited in the HCPA account.

The EGC unanimously approved the increase in the Jones and Stokes contract limit (6-0).

c) Consider authorizing staff to amend contract with Resources Law Group to extend contract term to December 31, 2006 and to increase overall contract limit by $40,000 from $115,000 to $155,000 for additional legal support, including additional assistance with wetlands permitting Memorandum of Understanding and Joint Exercise of Powers Agreement for the Implementing Entity.

The EGC unanimously approved the increase in the Resources Law Group contract limit (6-0).

6) Discussion on preparing and releasing the Final HCP/NCCP.

a) Review and discuss the "Summary of Substantive Proposed Changes to the Draft HCP/NCCP" (Summary of Changes), including recommendations of staff and Coordination Group on this matter.

Mr. Kopchik reviewed the summary document provided in the staff report and made the following additional comments.

- The cost estimates from the Draft HCP/NCCP have been adjusted to account for inflation. The new total cost for the plan's maximum urban development area scenario increased from $330 million to $350 million. Adjustments in some of the priority areas which were made to address public comment caused some of the land values to be reduced, which had the effect of offsetting a portion of the inflationary adjustment. The EGC commented that the contingency allocation seemed low. Mr. Kopchik clarified that the contingency amount indicated in the summary table was in addition to a specific allocation for remedial measures and that fee calculations also include a contingency component to reflect the uncertainty associated with projecting fee revenue collection.
- With regard to the jump start provision, Mr. Kopchik mentioned that approximately 2,000 acres have recently been purchased that may be counted toward the HCP once permanent protection and management consistent with the HCP/NCCP is ensured. The EGC commented that this puts the plan in a good position to be successful and this should be emphasized when the final documents are taken to the cities for adoption.
- Text has been added to the plan to address the situation where land is donated in lieu of fees.
- Areas of priority conservation have been adjusted to provide additional Swainson Hawk conservation and to reflect new city urban limit lines, in response to public comment.
- Some adjustments were made in the stream setback tables based on discussions with wetland agencies.

b) Consider authorizing staff to publish and release the Final HCP documents and initiate the final 30 day public comment period on these documents. Consider directing staff to incorporate the revisions proposed in the Summary of Changes, as these may be modified by the EGC, and to continue to work with wildlife agency staff and stakeholders on the precise language to be used in the HCP/NCCP to accomplish the recommendations in the Summary of Changes.

Mr. Kopchik mentioned that authorization to release the final documents was necessary to meet the project schedule and there may be another opportunity to consider changes to the document prior to adoption depending on the final public review comments. Some concern was raised about the timeliness of issuing the document relative to the resolution

of urban limit line issues. Mr. Kopchik responded that the documents are flexible and can be adapted if there are changes to the urban limit line that would effect the plan. The initial and maximum urban development areas were deliberately included in the plan to provide the flexibility needed to address potential future changes. City of Oakley has requested a benefit-cost analysis and Mr. Kopchik is committed to providing this information prior to seeking the City's adoption. The EGC unanimously authorized staff to incorporate the revisions proposed in the staff report, to continue to work with wildlife agency staff and stakeholders on the precise language to be used in the HCP/NCCP, and to publish and release the final HCP documents (6-0).

7) **Discussion of document "Organizational Structure for Implementing the ECC HCP/NCCP: OPTIONS". Consider providing guidance to staff on the EGC's preferences for structuring implementation and direct staff to prepare a Joint Powers Agreement reflecting these preferences.**

Mr. Kopchik reviewed the three options being considered for implementing entity organization structure. He said that Option 3, which is a hybrid approach of Options 1 and 2 and includes the East Bay Regional Park District as a partner in implementation separate from the implementing entity, is the approach being recommended by staff and the Coordination Group. The EGC posed a number of questions, asked for additional clarification on potential roles and responsibilities, and discussed the advantages and disadvantages of the various approaches. Some of the points discussed included the need to have legal input before proceeding, the role of EBRPD, and the ability for HCP implementation proceed through multiple partnerships.

The EGC asked what other HCP's are doing in this area. Mr. Kopchik provided an overview. San Joaquin has a council of governments that manages its plan. Initial implementation of the San Joaquin plan is reported to be not smooth, perhaps because there was little history of conservation land acquisition in that area though. The Natomas Basin HCP relies heavily on a non-profit entity for implementation. Riverside has a newly formed joint powers authority which is just starting implementation.

The EGC also discussed the staff recommendation that the County provide staff support to implementing entity There were concerns raised that in other similar arrangements, increasing County costs to provide this type of service are being questioned and it would probably be best if this issue could be addressed up front for the HCP. One suggestion was that the County provide a cost ceiling estimate for its services each year and if the implementing entity felt the costs were too high, then it would have the option to seek other staffing arrangements.

The EGC directed staff to continue discussions regarding the organizational structure and implementing entity and requested that a draft agreement be brought back to the committee for discussion at the next meeting. The following name for the implementing entity was suggested – East Contra Costa County Habitat Conservancy Partnership.

8) Administrative matters: Ratify invoices submitted by Jones and Stokes and the Resources Law Group and paid by the HCPA Treasurer.

Agency staff recommended ratification of paid invoices as presented. The EGC unanimously approved the action (6-0).

9) Select Next Meeting Dates.

No specific meeting date was set. A meeting date will be set once the schedule for completion is better defined.

10) Adjourn by 7:00 p.m.

JK/JB/rlr

EAST CONTRA COSTA COUNTY
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)
EXECUTIVE GOVERNING COMMITTEE

DATE: November 8, 2006

TO: Executive Governing Committee (EGC)

FROM: Member Agency Staff

SUBJECT: Budget items (agenda item #5)

RECOMMENDATION

Consider the following action items related to contracts and budget:

a) Approve revised HCPA Budget.
b) Consider authorizing staff to amend contract with Jones and Stokes to extend contract term to March 31, 2007 and to increase overall contract limit by $2,975, from $1,318,688 to $1,321,662 to cover the cost of creating compact disks containing the Final HCP/NCCP documents. Authorize staff to continue to increase the interim payment limit for the Jones and Stokes contract up to the contract limit as sufficient funds are deposited in the HCPA account.
c) Consider authorizing staff to amend contract with Resources Law Group to extend contract term to March 31, 2007 and to increase overall contract limit by $30,000 from $155,000 to $185,000 for additional legal support, including additional assistance with wetlands permitting Agreement and the Joint Exercise of Powers Agreement to form the East Contra Costa County Habitat Conservancy.
d) Ratify invoices submitted by Jones and Stokes and the Resources Law Group and paid by the HCPA Treasurer.

DISCUSSION

Attached please find a proposed revised HCPA budget and an HCPA financial summary. The proposed budget allocates approximately $35,000 in new or previously unallocated revenue to new tasks. Since the HCPA Budget approved by the EGC in April of 2006, the wildlife agencies have committed an additional $30,000 to the planning effort from interim fee revenues collected by the wildlife agencies. Likewise, the HCPA has received about $5000 in interest income that was not previously budgeted for any expense. The proposed revised Budget allocates this new revenue, to additional tasks as itemized below. Most of these additional tasks pertain to preparation of Implementation Agreement, the template Implementing Ordinance, the Joint Powers Agreement for the Implementing Entity, to wetlands coordination, and to production cost associated with the Final HCP/NCCP document. The revised Budget shows that we continue to have enough committed revenues to pay for remaining costs. It is important to continue to note, however, that the full costs of securing wetlands permit cannot be known with certainty at this time.

PROPOSED ALLOCATIONS OF NEW & PREVIOUSLY UNALLOCATED REVENUES

Contract/Provider	Task	Amount
Jones and Stokes	Production of 600 CD-ROMs for Final HCP/NCCP (this task had not been originally assigned to Jones and Stokes, but in the end was the most efficient means for producing the CDs)	$2,975
County	Additional costs for printing Final HCP/NCCP, Final EIR/EIS, and Introduction booklets (In previous budgets, overall printing costs for the Draft and Final HCP documents was assumed to be $18,000. Costs for printing ultimately were a little over $21,000. The proposed Budget allocates the remainder of the unencumbered funds, $1,930, to cover a portion of the cost over-run)	$1,930
Resources Law Group	Additional legal support, including additional assistance with Joint Exercise of Powers Agreement for the Implementing Entity, Implementation Agreement, and the template Implementing Ordinance, and a wetlands agreement.	$30,000
	TOTAL	**$34,905**

As has always been the case with HCPA consultant contracts, contracts will continue to have both overall payment limits and interim expenditure limits. Interim expenditure limits are a cash flow protection, ensuring that no costs can be incurred until we have adequate funds in the HCP account to pay for these costs.

The supporting material for item 5d are provided under separate cover.

EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN ASSOCIATION

Budget

Recommended for EGC approval on November 8, 2006
(items changed since April 2006 Budget that was approved by the EGC are shaded)

REVENUE (Current)

	Approved	Deposited in HCPA account
CCWD	$325,000	$325,000
Route 4 Bypass	$114,056	$114,056
City of Clayton	$11,761	$11,761
EPA Grant (Approved)	$75,000	$75,000
CCWD (FESA Map Transfer)	$80,000	$80,000
County Fish and Wildlife Committee	$35,000	$35,000
FWS/CDFG Section 6 Grants (approved)	$795,853	$715,746
NCCP Local Assistance Grant (CDFG)	$50,000	$0
County Flood Control/Public Works	$65,000	$65,000
U.S. Bureau of Reclamation	$75,000	$75,000
CDFG, interim fee revenue	$180,000	$150,000
Interest / photocopy reimbursement	$9,529	$9,529
Total current revenue	**$1,816,199**	**$1,656,091**

EXPENSES (estimated and actual)

	Total estimated	Billed to date
Jones & Stokes (Project Consultant)	$1,305,199	$1,283,536
County - Coordinating Agency	$269,930	$22,236[1]
Independent Science Review (including J&S[2])	$44,570	$44,570
Legal support from Resources Law Group	$185,000	$155,000
ABAG/SFRWQCB permit processing costs	$10,000	$0
Multi-county $ request to Congress (IEH)	$1,500	$1,500
Total	**$1,816,199**	**$1,507,842**
Balance	**$0**	

(Additional fund-raising may be necessary if further assistance is needed from the HCPA on wetlands compliance)

[1] Actual expenses to date estimated at $250k. County has not invoiced in many months to assist with cash flow balance and has temporarily deposited $100,000 (not reflected in totals above) in the HCPA account as an additional protective measure.

[2] Jones Stokes had costs of $16,464 to support the science panel. Total proposed Jones and Stokes contract amount = $1,305,199 + $16,464 = $1,321,662

HABITAT CONSERVATION PLAN ASSOCIATION
ACTIVITY SUMMARY

As of October 17, 2006

TRUST 499300

	Deposits	
11/25/2002	Opening Deposit - Transfer balance from CCWD	$153,703.76
12/12/2002	Transfer from PW Lowell Tunison, JV2195 12/5/02	$100,000.00
12/12/2002	Interest earnings from PW Lowell Tunison, JV2195 12/5/02	$14,056.38
3/18/2003	Transfer from LAIF Account DP402206 3/18/03	$30,000.00
4/14/2003	Transfer from Fish & Wildlife Propagation fund J/V4137 4/14/03	$35,000.00
7/10/2003	Transfer from LAIF Account DP408375 7/10/03	$30,000.00
9/24/2003	Dept of Fish & Game	$109,451.70
1/14/2004	Transfer from LAIF Account	$100,000.00
2/27/2004	Dept of Fish & Game	$87,457.50
4/5/2004	Loan from Land Dev 3520 JV5564	$100,000.00
4/13/2004	HCPA-CCWD	$25,000.00
4/28/2004	Clayton Sphere of Influence	$1,760.50
5/4/2004	Dept of Fish & Game	$40,322.70
6/30/2004	Dept of Fish & Game	$29,807.00
8/26/2004	Contra Costa Water District	$20,000.00
9/21/2004	Dept of Fish & Game	$36,664.20
9/30/2004	Transfer from PW Roads, Flood Control and Airport	$65,000.00
12/7/2004	Dept. of Reclamation Watershed HCPA DP433912 11/02/04	$25,000.00
12/14/2004	Dept of Fish & Game	$30,532.50
3/11/2005	California Wildlife Foundation (Planning Funds)	$150,000.00
4/19/2005	Dept of Fish & Game	$5,466.00
8/2/2005	HCPA Book (DP#449032 Receipt# 3095)	$119.00
8/29/2005	HCPA Contribution for construction in progress from CCWD	$20,000.00
10/26/2005	Wire Transfer From BOR	$50,000.00
12/7/2005	Dept of Fish & Game DP455423 Receipt # 4039	$67,307.00
12/7/2005	Dept of Fish & Game DP455423 Receipt # 4041	$137,032.60
12/7/2005	HCPA Book (DP#455423 Receipt# 4038)	$91.00
12/19/2005	HCPA Book (DP#456124 Receipt# 4188)	$119.00
3/15/2006	Draft EIR (Receipt 4770)	$21.00
3/15/2006	Draft EIR (Receipt 4771)	$13.20
6/21/2006	Dept of Fish & Game DP465940 Receipt # 5405	$171,704.70

Total Deposits: $1,635,629.74

	Debits	
12/10/2002	Jones & Stokes Oct 10, 02 invoice	$8,600.97
12/10/2002	Jones & Stokes Nov 08, 02 invoice	$8,000.54
12/10/2002	Erica Fleishman Dec1, 02 invoice	$988.33
1/7/2003	Jones & Stokes Dec 13, 02 invoice	$18,340.14
2/4/2003	Jones & Stokes Jan 15, 03 invoice	$11,925.13
2/5/2003	Transfer $200,000 to LAIF account	$200,000.00
2/19/2003	SAP meeting payment B. Ertter	$800.00
2/19/2003	SAP meeting payment S. Orloff	$800.00
2/19/2003	SAP meeting payment B. Pavlik	$800.00
2/19/2003	SAP meeting payment L. Huntsinger	$1,300.00
3/17/2003	Erica Fleishman March1, 03 invoice	$2,186.81
4/10/2003	SAP meeting pmt, S. Terrill	$400.00
4/10/2003	SAP 2/26/03 meeting pmt, L. Huntsinger	$1,300.00
4/10/2003	SAP 2/26/03 meeting pmt, B. Pavlik	$800.00

HABITAT CONSERVATION PLAN ASSOCIATION
ACTIVITY SUMMARY

As of October 17, 2006

4/10/2003	SAP 2/26/03 meeting pmt, IBIS S. Orloff	$800.00
4/10/2003	SAP 2/26/03 meeting pmt, B. Ertter	$800.00
4/10/2003	SAP 5/29/02 & 2/26/03 meeting pmts, A. Launer	$1,600.00
4/10/2003	Erica Fleishman April 1, 2003 invoice	$937.50
4/16/2003	Jones & Stokes 2/7/30 invoice	$11,848.56
4/16/2003	Jones & Stokes 2/10/03 Retainage invoice	$18,194.70
4/16/2003	Jones & Stokes 2/25/03 invoice	$2,660.31
5/15/2003	Jones & Stokes 3/13/03 & 4/10/03 invoices	$9,536.90
6/14/2003	Jones & Stokes 5/7/03 invoice	$10,659.33
6/18/2003	HCPA Institute for Ecology 6/5/03 invoice	$1,500.00
6/25/2003	Jones & Stokes 6/4/03 invoice	$13,999.77
9/3/2003	Jones & Stokes 7/15/03 & 8/8/03 invoices	$24,972.66
10/8/2003	Transfer $50,000 to LAIF account	$50,000.00
11/17/2003	Jones & Stokes 9/10/03 and 10/3/03 invoices	$60,293.36
12/5/2003	Erica Fleishman 12/1/03 invoice	$651.83
1/14/2004	Jones & Stokes Retainage invoice 12/15/03	$21,129.32
1/14/2004	Erica Fleishman 1/1/04 invoice	$2,266.03
1/14/2004	E/C J&S invoice #16000 dated 9/10/03	$4,614.98
1/14/2004	Jones & Stokes 11/6/03 invoice	$20,838.70
1/14/2004	Jones & Stokes 12/8/03 invoice	$30,248.02
3/12/2004	J&S #17744 dated 1/15/04 and #17844 dated 2/5/04	$41,643.77
3/12/2004	RLG #1313 dated 11/20/03 and #1349 dated 1/16/04	$11,325.00
4/9/2004	J&S 18316 dated 3/8/04	$30,690.43
4/9/2004	Erica Fleishman 3/3/04 invoice	$525.00
4/9/2004	SAP meeting pmt, S. Terrill	$900.00
4/9/2004	SAP 2/26/03 meeting pmt, L. Huntsinger	$1,400.00
4/9/2004	SAP 2/26/03 meeting pmt, B. Pavlik	$900.00
4/9/2004	SAP 2/26/03 meeting pmt, IBIS S. Orloff	$900.00
4/9/2004	SAP 2/26/03 meeting pmt, B. Ertter	$900.00
4/9/2004	SAP 5/29/02 & 2/26/03 meeting pmts, A. Launer	$900.00
5/11/2004	Erica Fleishman 4/30/04 invoice	$276.10
5/11/2004	Resources Law Group, LLP Inv# 1370	$3,150.00
5/11/2004	Resources Law Group, LLP Inv# 1422	$8,218.75
5/11/2004	Resources Law Group, LLP Inv# 1455	$7,993.75
5/25/2004	J&S 18936 dated 4/14/04	$70,137.53
6/15/2004	J&S 19337 dated 5/11/04	$27,554.59
6/15/2004	J&S 19600 dated 6/04/04	$29,311.44
7/9/2004	Jones & Stokes Retainage 9/30/02-4/25/04	$10,988.66
8/18/2004	J&S 20214 dated 7/14/04	$24,607.11
9/16/2004	J&S 20574 dated 8/05/04	$20,738.74
9/16/2004	J&S 21111 dated 9/07/04	$25,967.96
9/30/2004	RLG #1523 dated 7/14/04	$1,981.25
9/30/2004	RLG #1543 dated 8/24/04	$2,325.00
9/30/2004	RLG #1552 dated 9/14/04	$843.75
10/21/2004	J&S 21486 dated 10/06/04	$22,891.89
10/21/2004	RLG #1576 dated 10/08/04	$1,687.50
12/9/2004	J&S 22499 dated 11/30/04	$17,706.29
1/11/2005	RLG #1610 dated 11/17/04 and #1639 dated 12/16/04	$11,737.50
1/11/2005	Jones & Stokes Retainage 11/24/03 thru 10/24/04	$7,231.18
1/11/2005	J&S 22197 dated 11/09/04	$21,871.73
1/12/2005	J&S 23066 dated 1/06/05	$25,497.50
3/16/2005	J&S 23538 dated 2/01/05	$40,605.65
3/16/2005	J&S 24197 dated 3/02/05	$22,368.95
3/16/2005	RLG #1659 dated 1/24/05 and #1681 dated 3/02/05	$14,502.50
3/17/2005	Jones & Stokes Retainage 11/24/03 thru 12/26/04	$26,147.74

HABITAT CONSERVATION PLAN ASSOCIATION
ACTIVITY SUMMARY

As of October 17, 2006

5/12/2005	RLG #1717 dated 3/30/05 and #1741 dated 4/28/05	$7,531.25
5/12/2005	J&S 24734 dated 4/06/05	$14,244.49
5/12/2005	J&S 25732 dated 5/09/05	$12,616.29
7/21/2005	J&S 26330 dated 6/8/05 (PY 04-05)	$20,065.87
8/9/2005	RLG #1761 dated 6/01/05 and #1790 dated 7/05/05 Partial Pymt	$18,704.25
8/17/2005	Jones & Stokes Retainage 11/21/04 thru 6/26/05	$13,012.95
9/2/2005	Copying job JV# 0541	$7,169.00
9/20/2005	J&S 27436 dated 8/04/05	$11,986.92
9/20/2005	J&S 28049 dated 9/01/05	$5,601.85
10/24/2005	Contra Costa Newspapers I01541577-10052005 CK#28753	$213.16
10/25/2005	J&S 26778 dated 7/08/05	$34,871.23
10/26/2005	J&S 28650 dated 10/06/05	$9,753.39
11/9/2005	Contra Costa Newspapers I01541577-09302005 CK# 28753	$213.16
11/9/2005	Contra Costa Newspapers I01541577-09302005 CK# 28753	-$213.16
11/9/2005	Contra Costa Newspapers I01539290-09302005 CK# 28753	$411.60
12/7/2005	RLG #1868 dated 10/10/05 and #1897 dated 11/22/05	$7,981.25
12/7/2005	J&S 29130 dated 11/02/05	$16,076.72
12/9/2005	RLG #1790 bal due dated 7/05/05 and #1817 dated 7/19/05	$7,754.50
12/14/2005	J&S 29871 dated 12/09/05	$17,706.71
3/15/2006	RLG #1917 dated 12/27/05 and #1932 dated 1/31/06 Partial Pymt	$9,264.00
3/15/2006	J&S 30385 dated 1/11/06	$29,000.34
3/15/2006	J&S 31070 dated 2/10/06	$15,071.13
3/15/2006	J&S 31560 dated 3/08/06	$10,717.05
5/4/2006	RLG #1932 dated 1/31/06 Balance Due	$1,193.50
5/4/2006	RLG #1975 dated 3/03/06	$19,181.25
5/4/2006	RLG #2001 dated 3/28/06	$13,063.75
5/4/2006	RLG #2033 dated 4/21/06 Partial Payment	$6,561.50
5/4/2006	Jones & Stokes Retainage 7/24/05 thru 11/27/05	$1,623.16
5/4/2006	J&S 32196 dated 4/12/06	$10,029.74
8/15/2006	J&S 32928 dated 5/11/06	$4,693.00
8/15/2006	J&S 33823 dated 6/13/06	$10,001.53
8/15/2006	J&S 34666 dated 7/21/06	$17,277.97
9/12/2006	J&S 35643 dated 9/06/06	$7,056.85
10/11/2006	J&S 34931 dated 8/09/06	$11,488.69
10/11/2006	Jones & Stokes Retainage 7/24/05 thru 7/30/06	$17,199.62
10/17/2006	J&S 36527 dated 10/13/06	$11,690.32

$1,481,035.98

Balance 499300: ***$154,593.76***

HABITAT CONSERVATION PLAN ASSOCIATION
ACTIVITY SUMMARY

As of October 17, 2006

LAIF ACCOUNT

	Deposits	
2/5/2003	Transferred from Trust 499300	$200,000.00
4/15/2003	Interest	$551.34
7/15/2003	Interest	$751.10
10/9/2003	Transferred from Trust 499300	$50,000.00
10/15/2003	Interest	$591.11
1/15/2004	Interest	$736.60
4/15/2004	Interest	$399.58
7/15/2004	Interest	$332.71
10/15/2004	Interest	$393.20
1/14/2005	Interest	$472.14
4/15/2005	Interest	$552.20
7/15/2005	Interest	$672.33
10/13/2005	Interest	$764.26
1/12/2006	Interest	$878.91
4/14/2006	Interest	$964.73
7/13/2006	Interest	$1,105.28

Total Deposits:	***$259,165.49***

3/18/2003	Transferred $30000 to Trust 499300	$30,000.00
7/10/2003	Transferred $30000 to Trust 499300	$30,000.00
1/14/2004	Transferred $100000 to Trust 499300	$100,000.00

Total Expenditures:	***$160,000.00***

Balance LAIF:	***$99,165.49***

EAST CONTRA COSTA COUNTY
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)
EXECUTIVE GOVERNING COMMITTEE

DATE: November 8, 2006

TO: Executive Governing Committee (EGC)

FROM: Member Agency Staff

SUBJECT: Discussion and action on the Final HCP/NCCP (agenda item #6)

RECOMMENDATION

Consider the following action items related to the Final HCP/NCCP:

a) Consider accepting a report from the HCPA Coordination Group on the Final HCP/NCCP. The Coordination Group is scheduled to meet at 1 p.m. on November 8, 2006 on this matter.
b) Consider certifying the Final Environmental Impact Report (EIR) for the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan
c) Consider adopting Findings (Exhibit B) and a Mitigation Monitoring and Reporting Plan (MMRP) (Exhibit C) pursuant to the requirements of the California Environmental Quality Act (CEQA).
d) Consider approving the East Contra East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP) for submission to the City Councils of the Cities of Brentwood, Clayton, Oakley, and Pittsburg, the Contra Costa County Board of Supervisors, and the East Bay Regional Park District Board of Directors and consider a recommendation to these entities on approving the HCP/NCCP.

DISCUSSION

The HCPA was formed to manage and fund the development of an HCP/NCCP for submission to the governing boards of HCPA member agencies and ultimately to the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). The HCPA is also the lead agency under CEQA for the HCP/NCCP project. The actions proposed under this agenda item would, if approved, enable the HCPA to complete its central objective.

At its meeting on April 12, 2006, the EGC authorized staff to publish and release the final HCP/NCCP and related documents after incorporating key proposed revisions presented to the EGC and following additional staff work and consultation on the plan details. The Final HCP/NCCP was released on October 10, 2006 and is available on the web at www.cocohcp.org, on CD-ROM, and in four printed volumes as further described in the attached notice announcing the availability of the documents (Exhibit A). A final version of the introductory booklet originally prepared for the Draft HCP/NCCP was also updated and released and is available on the website, on the CDs, and in print. The introductory booklet is attached.

The actions recommended under agenda item #6 would initiate the approval process for the HCP/NCCP. A summary of this and the other steps in that process is provided below:

November 8: The EGC will consider the following key actions:

- Certifying the EIR and approving findings and a mitigation monitoring and reporting plan consistent with the requirements of CEQA
- Approving the HCP/NCCP for submission to city councils, County Board of Supervisors, and East Bay Regional Park District (EBRPD) Board of Directors.

December 2006 / January 2007: City councils, County Board of Supervisors, and EBRPD Board of Directors each meet to consider the following actions:

- Approve HCP/NCCP (each agency)
- Approve Implementing Agreement (final draft is in Appendix B of the HCP/NCCP) (each agency)
- Approve joint exercise of powers agreement to form the Implementing Entity, the "East Contra Costa County Habitat Conservancy" (city councils and County Board of Supervisors only) (agenda item #7 relates to this matter)
- Issue CEQA findings as a responsible agency (each agency)

Tentative meeting dates for these agencies to consider the above actions:

City of Brentwood: January 9, 2007 (possible workshop on this matter on December 12, 2006)

City of Clayton: December 5 or 19, 2006

City of Oakley: December 11, 2006 (workshop on this matter is currently scheduled for November 27, 2006)

City of Pittsburg: January 15, 2007

County Board of Supervisors: December 5, 12, or 19, 2006 (Board Transportation, Water and Infrastructure Committee may consider on November 13, 2006)

EBRPD: January 9, 2006 (Board Legislative Committee may consider on November 16, 2006)

January 2007: Implementing Entity Governing Board meets and considers approving HCP/NCCP and Implementing Agreement.

Early 2007: CDFG and USFWS consider approving Implementing Agreement and issuing permits to local agencies. USFWS consider these actions pursuant to the requirements of NEPA and will be issuing a Federal Register Notice announcing the availability of the EIS soon.

90 days after the above: Deadline for Cities/County to adopt Implementing Ordinance, if permits are to remain valid (model Implementing Ordinance is in Appendix F of the HCP/NCCP).

In considering this agenda item, staff recommends that the EGC hear a verbal report from staff on Item 6, then hear the report from the Coordination Group, then take public comment on item 6, and finally consider action on each item in separate motions.

Additional background on each component of agenda item #6 is provided below.

6a) Consider accepting a report from the HCPA Coordination Group on the Final HCP/NCCP. The HCPA Coordination Group, the committee of staff and stakeholders that has advised the EGC on the development of the HCP/NCCP, will meet at 1 p.m. on November 8 to consider final recommendations to the EGC on approval of the HCP/NCCP. The Coordination Group will present any such recommendations under this item.

6b) Consider certifying the Final Environmental Impact Report (EIR) for the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan. By certifying, the EGC would find that the Final EIR was prepared in compliance with CEQA, was reviewed and considered by the HCPA before considering approval of the project, and that it reflects the independent judgment of the HCPA. Staff recommends that the EGC certify the Final EIR.

6c) Consider adopting Findings (Exhibit B) and a Mitigation Monitoring and Reporting Plan (MMRP) (Exhibit C) pursuant to the requirements of the California Environmental Quality Act (CEQA). CEQA requires that agencies must make one of the following findings for each significant impact identified in an EIR: 1) the project has been changed or mitigated to reduce the impacts to a less than significant level; 2) changes to reduce impacts to a less than significant impact are within another agency's jurisdiction and will be adopted, or 3) there are overriding considerations that make mitigation infeasible. As indicated in the proposed Findings (attached to this report as Exhibit B) and in the EIR, significant impacts identified for the HCP/NCCP will all be mitigated to a less than significant level. CEQA also requires that agencies adopt a mitigation monitoring and reporting plan (MMRP) for measures it has proposed to mitigate significant environmental effects. The purpose of the MMRP is to ensure that the measures identified in the EIR are implemented and to identify who is responsible for their implementation. All significant impacts identified for the HCP/NCCP relate to the assembly, restoration and operation of the HCP/NCCP preserve system and mitigation measures would be the responsibility of the HCP/NCCP Implementing Entity. Staff recommends that the EGC adopt the proposed Findings and MMRP (attached to this report as Exhibits B and C, respectively).

An additional, optional finding has been prepared in the event that Measure L (Urban Limit Line) is adopted by the voters on November 7, 2006. This finding states that the HCP/NCCP has already anticipated potential ULL changes in the design of the conservation strategy and the use of the initial and maximum urban development areas and that no further revisions or recirculation of the EIR is necessary. Staff recommends this additional Finding also be adopted if Measure L is approved.

6d) Consider approving the East Contra East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP) for submission to the City Councils of the Cities of Brentwood, Clayton, Oakley, and Pittsburg, the Contra Costa County Board of Supervisors, and the East Bay Regional Park District Board of Directors and consider a recommendation to these entities on approving the HCP/NCCP. As

discussed above, the HCPA was formed to manage and fund the development of an HCP/NCCP for submission to the governing boards of HCPA member agencies and ultimately to the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). If the EGC approves the HCP/NCCP for submission, the documents would be presented to city councils, County Board of Supervisors, and the EBRPD Board of Directors for their consideration, as further explained in the summary of the approval process presented above.

Staff recommends that the EGC approve the HCP/NCCP for submission to the City Councils of the Cities of Brentwood, Clayton, Oakley, and Pittsburg, the Contra Costa County Board of Supervisors, and the East Bay Regional Park District Board of Directors. Staff further recommends that the EGC recommend approval of the HCP/NCCP to the above-described entities. Staff believe that the rationale for these recommendations is well-presented in the attached introductory booklet on the HCP/NCCP entitled, "Conserving Natural Lands and Sustaining Economic Development: An Introduction to the Final East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan" which was developed with the assistance and advice of the HCPA Coordination Group.

EXHIBIT A
Agenda item #5

East Contra Costa County Habitat Conservation Plan Association

Date: October 10, 2006

To: Interested Parties

Subject: Final East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) and Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the HCP/NCCP

Dear Ladies and Gentlemen:

Enclosed for your review is a compact disk containing the Final East Contra Costa County Habitat Conservation Plan/ Natural Community Conservation Plan (HCP/NCCP) as well as the Final Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for the HCP/NCCP. These materials may also be viewed on the internet at http://www.cocohcp.org. Paper copies will be available to view at the libraries and offices listed below by Tuesday, October 17, 2006. Paper copies may also be purchased for the price of reproduction. Please contact me at the number provided below for more information.

The HCP/NCCP was prepared by the East Contra Costa County Habitat Conservation Plan Association (HCPA), a Joint Exercise of Powers Authority formed by the Cities of Brentwood, Clayton, Oakley, and Pittsburg, Contra Costa County, the Contra Costa Water District, and the East Bay Regional Park District.

The HCPA Coordination Group, the committee of stakeholders and agency representatives that advised in the development of the HCP/NCCP will meet on October 12th and October 16th at 1 p.m. at the City of Pittsburg City Hall at 65 Civic Drive to discuss the planning effort. The Coordination Group meetings are open to the public and agendas will continue to be circulated to all who request to be on the Coordination Group mailing list. Printed copies of the Final HCP/NCCP and Final EIS/EIR will be available at these upcoming meetings.

The EIS/EIR was prepared in compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The HCPA is the lead CEQA agency for the EIR. The Cities of Brentwood, Clayton, Oakley, and Pittsburg, Contra Costa County (County), the Contra Costa County Flood Control and Water Conservation District (Flood Control), and the East Bay Regional Park District (EBRPD) are responsible agencies under CEQA and would be the permittees under the HCP/NCCP. The U.S. Fish and Wildlife Service (USFWS) is the lead NEPA agency for the EIS and the lead federal agency for consideration of an Incidental Take Permit (ITP) pursuant to Section 10 of the federal Endangered Species Act. The California Department of Fish and Game (CDFG) is the lead state agency for consideration of an ITP pursuant to Section 2835 of the California Fish and Game Code. The HCPA, permittees, USFWS, and CDFG will take separate actions in the next few months concerning NEPA, CEQA, approval of the HCP/NCCP, and issuance of associated permits.

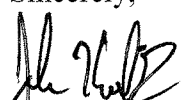
On November 8, 2006, the HCPA Executive Governing Committee will consider certification of the Final EIR (under CEQA) and approval of the Final HCP/NCCP for submission to the permittees for their approval. This meeting will be held at the City of Pittsburg City Hall at 65 Civic Drive at 5:30 pm. While CEQA does not require circulation nor a comment period for Final EIRs, the HCPA will consider any written comments concerning the final documents that are received prior to November 8, 2006. Written responses to comments will not be prepared. Comments can be submitted to the HCPA at the address below for the Contra Costa County Community Development Department.

The USFWS will be processing the Final EIS (under NEPA) shortly. A Notice of Availability regarding these draft documents will be published soon in the Federal Register. A 30-day public comment period will commence when the Notice of Availability is published. The Federal Register may be viewed on the internet at http://www.gpoaccess.gov/fr/index.html.

After the HCPA Executive Governing Committee meeting on November 8, 2006, if the HCP/NCCP is approved for submittal, the local agency permittees (cities, County, Flood Control and EBRPD) will be holding meetings to consider their approval of the HCP/NCCP. These meetings will be publicly noticed by the individual agencies per their normal meeting procedures.

Thank you very much for your interest in the East Contra Costa County HCP/NCCP. Please feel free to contact me at the Contra Costa County Community Development Department at (925) 335-1227 with any questions.

Sincerely,



John Kopchik, Principal Planner
Contra Costa County Community Development Department, Coordinating Agency
East Contra Costa County Habitat Conservation Plan Association

LOCATIONS TO VIEW DOCUMENTS:

Contra Costa County Libraries
751 Third Street, Brentwood, CA
6125 Clayton Road, Clayton, CA
Freedom High School, 1050 Neroly Road, Oakley, CA
80 Power Avenue, Pittsburg, CA
Riverview Middle School, 205 Pacifica Avenue, Bay Point, CA

Local Agency Offices
City of Brentwood, Community Development Dept., 104 Oak Street, Brentwood, CA 94513
City of Clayton, Community Development Department, 6000 Heritage Trail, Clayton, CA 94517
City of Oakley, Community Development Department, 3231 Main Street, Oakley, CA 94561
City of Pittsburg, Planning Department, 65 Civic Drive, Pittsburg, CA 94565
Contra Costa County Community Development Department, 651 Pine Street, North Wing, Fourth Floor, Martinez, CA 94553
East Bay Regional Park District, 2950 Peralta Oaks Court, Oakland, CA 94605

EXHIBIT B

CEQA FINDINGS
RELATED TO THE CERTIFICATION OF THE EIR FOR THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN / NATURAL COMMUNITY CONSERVATION PLAN
BY THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN ASSOCIATION

I. INTRODUCTION

1. These are the CEQA findings prepared by the East Contra Costa County Habitat Conservation Plan Association (HCPA) as lead agency for the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan ("Proposed Project" or "HCP/NCCP"). These findings pertain to the Project and the Environmental Impact Report prepared for that Project (SCH #2005092129). The Draft EIR, the Final EIR, and all the appendices comprise the "EIR" referenced in these findings.

2. The HCPA is a joint powers authority that is comprised of: the Cities of Brentwood, Clayton, Oakley, and Pittsburg; Contra Costa County; the Contra Costa Water District (CCWD); and the East Bay Regional Park District. The HCPA was formed to manage and fund development of the proposed HCP/NCCP for submission to the agencies that formed the HCPA and to United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (DFG).

3. These CEQA findings are attached as Exhibit B to a staff report documenting the HCPA's adoption of these CEQA findings and certification of the EIR**.** That staff report also documents the HCPA's adoption of an Exhibit C, which contains the Mitigation Monitoring and Reporting Plan ("MMRP"), and which references the Project's impacts, mitigation measures, levels of significance before mitigation, and resulting levels of significance after mitigation.

II. THE PROJECT

4. The proposed HCP/NCCP plan offers the best combination of project benefits, including factors related to both the project's purpose and need and its impacts, and contains the elements described below.

Two permit areas which reflect the range of expected growth in the area would be established: an initial urban development area (which would authorize 9,796 acres of ground-disturbing urban development activities); and a maximum urban development area (which would authorize up to 13,029 acres of ground-disturbing urban development activities).

Covered activities (i.e., specific activities or projects) in the proposed HCP/NCCP which would be permitted by DFG and USFWS include the following three distinct categories: (1) Activities and projects associated with urban growth, in accord with local general

plans; (2) Specific infrastructure projects outside the urban development area; and (3) certain activities inside the proposed HCP/NCCP preserves including construction and maintenance of recreational or management facilities, habitat enhancement, restoration, and creation, management activities necessary to achieve the HCP/NCCP's biological goals, surveys for covered species, vegetation communities, and other resources, agricultural activities on adjoining land within one mile of the preserve boundary, low-intensity recreational use, and construction and maintenance of utility infrastructure.

Other activities or projects not specifically described above may be evaluated for coverage under the proposed HCP/NCCP on a case-by-case basis.

The main element of the proposed HCP/NCCP conservation strategy is the creation of a Preserve System that would preserve approximately 23,800 acres of land with the initial urban development area, or approximately 30,300 acres of land under the maximum urban development area. Likely locations for land acquisition have been divided into Acquisition Analysis Zones, and are under study as detailed in Chapter 2 of the EIR.

The proposed HCP/NCCP conservation measures address the landscape-level, community-level (or habitat), and species-level impacts, and includes measures to address the following objectives: design of covered activities to avoid or minimize impacts on covered species and covered vegetation communities; preservation of covered vegetation communities; preservation of covered species populations and habitats; restoration of covered species habitat and vegetation communities to compensate for direct and indirect impacts on specific species and vegetation communities; restoration of species habitat to contribute to the recovery of listed covered species and help prevent the listing of non-listed covered species, and management of preserves to maximize the functions of habitats for covered species.

III. ENVIRONMENTAL REVIEW OF THE PROJECT

5. Pursuant to the California Environmental Quality Act, Public Resources Code section 21000 *et seq*. ("CEQA") and the CEQA Guidelines, Code of California Regulations, Title XIV, Section 15000 *et seq*., the HCPA determined that an Environmental Impact Report consisting of a Draft EIR, a Final EIR and all the appendices ("EIR") would be prepared for the Project.

6. The HCPA issued a Notice of Preparation (NOP), which was circulated to responsible agencies and interested groups and individuals for review and comment on June 30, 2003.

7. Upon completion of the Draft EIR, the HCPA filed a notice of availability (NOA) in compliance with CEQA with the State Clearinghouse. The HCPA distributed the NOA and the EIR to interested agencies, organizations, and individuals for review and comment and made the EIR available at public libraries for public review. The public review period was September 2, 2005, to December 1, 2005; however, both the Draft HCP/NCCP and the Draft EIR were made available in June 2005.

8. The HCPA received written comments on the Draft EIR during the public review period. The HCPA prepared responses to comments on environmental issues, and made changes to the Draft EIR. The responses to comments, changes to the Draft EIR and additional information were published in the Final EIR on October 10, 2006.

9. The Executive Governing Committee of the HCPA held a public meeting on the EIR on November 8, 2006. At this meeting, the HCPA certified the EIR and approved the HCP/NCCP for submission to the City Councils of the Cities of Brentwood, Clayton, Oakley, and Pittsburg, the Contra Costa County Board of Supervisors, and the East Bay Regional Park District Board of Directors.

10. At all public meetings during the preparation of the HCP/NCCP, the HCPA staff and its consultants provided information about the Project, the potential environmental impacts, and the CEQA review process. At each meeting, members of the public had the opportunity to ask questions and express their concerns and interests for the Project.

11. CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the draft EIR but before certification. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The Guidelines provide examples of significant new information under this standard. Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. The HCPA finds that the EIR does not contain significant new information as defined in the Guidelines and that recirculation of the EIR therefore is not required.

IV. THE RECORD

12. The record upon which all findings and determinations related to the Project are based includes the following:

a. The EIR and all documents referenced in or relied upon by the EIR.

b. All information (including written evidence and testimony) provided by HCPA staff to the HCPA relating to the EIR, the proposed approvals, the Project or its alternatives.

c. All information (including written evidence and testimony) presented to the HCPA by the environmental consultant and subconsultants who prepared the EIR, or incorporated into reports presented to the HCPA.

d. All information (including written evidence and testimony) presented to the HCPA from other public agencies relating to the Project or the EIR.

f. All information (including written evidence and testimony) presented at any public hearing or workshop related to the Project and the EIR.

g. For documentary and information purposes, all locally-adopted land use plans and ordinances, including, without limitation, general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.

h. The MMRP for the Project.

i. All other documents comprising the record pursuant to Public Resources Code Section 21167.6(e).

13. The custodian of the documents and other materials that constitute the record of proceedings upon which the HCPA's decision is based is John Kopchik, Principal Planner, Contra Costa County Community Development Department. The general location of these material is the Contra Costa County Community Development Department at 651 Pine Street, North Wing, Fourth Floor, Martinez, California 94553.

14. These findings are based upon substantial evidence in the entire record before the HCPA. The references to certain pages or sections of the EIR set forth in these findings are for ease of reference only and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

V. CERTIFICATION OF THE EIR

15. In accordance with CEQA and the CEQA Guidelines, the HCPA, as lead agency, certifies that the EIR has been completed in compliance with CEQA and the CEQA Guidelines. The HCPA further certifies that it has reviewed and considered the information in the EIR prior to approving the Project. Similarly, the HCPA finds that it has reviewed the record and the EIR prior to approving any element of the Project. By making these findings, the HCPA confirms, ratifies and adopts the findings and conclusions of the EIR, as supplemented and modified by the findings contained herein. The EIR and these findings represent the independent judgment and analysis of the HCPA.

16. The HCPA certifies that the EIR is adequate to support the approval of the Project and for each approval required for construction or operation of the Project.

VI. MITIGATION MEASURES, CONDITIONS OF APPROVAL, AND MMRP

17. Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097 require the HCPA to adopt a monitoring plan or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The HCPA finds that MMRP included in Exhibit C meets these requirements and hereby adopts the MMRP.

18. The mitigation measures recommended by the EIR and incorporated into the Project are specific and enforceable. As appropriate, some mitigation measures define performance standards to ensure no significant environmental impacts occur. The MMRP adequately describes conditions, implementation, verification, and reporting

requirements to ensure the Project complies with the adopted mitigation measures. The MMRP ensures that the mitigation measures are in place, as appropriate, throughout the life of the Project. The mitigation measures described in Exhibit C are incorporated into these findings as conditions of each of the approvals required for the Project.

19. The mitigation measures set forth in Exhibit C reflect the mitigation measures set forth in the EIR.

VII. FINDINGS REGARDING IMPACTS

20. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091 and 15092, the HCPA adopts the findings and conclusions regarding impacts and mitigation measures that are set forth in the EIR, and summarized in Table A-1. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The HCPA ratifies, adopts and incorporates the analysis, explanation, findings, responses to comments and conclusions of the EIR. The HCPA adopts the reasoning of the EIR.

21. The HCPA has, by its review of the evidence and analysis presented in the EIR and in the record, acquired a better understanding of the full scope of the environmental issues presented by the Project. In turn, this understanding has enabled the HCPA to make fully informed, thoroughly considered decisions on these important issues. These findings are based on a full appraisal of the EIR and the record, as well as other relevant information in the record of proceedings for the Project.

22. The HCPA finds that, with HCP/NCCP implementation, including all conservation measures in Chapter 5 of the HCP/NCCP, and all the conditions on covered activities in Chapter 6 of the HCP/NCCP, and with implementation of the identified mitigation in the MMRP, all of the Project impacts will be at a level of less than significant as shown in table ES-1 of the final EIR.

VIII. FINDINGS REGARDING ALTERNATIVES

26. The HCPA adopts the EIR's analysis and conclusions regarding alternatives considered and the alternatives eliminated from further consideration, both during the scoping process and in response to comments.

27. The EIR evaluated a reasonable range of alternatives to the original project. Fully evaluated alternatives included: Alternative 2 (Conservation Strategy B); Alternative 3 (Reduced Development Area); and Alternative 4 (No Action/No Project). The analysis examined the feasibility of each alternative, the environmental impacts of each alternative, and the ability of each alternative to meet the project objectives. As the EIR was combined with a NEPA Environmental Impact Statement (EIS), the evaluation of alternatives was at an equal level of detail. Seven additional alternatives were considered, but eliminated from further consideration for the reasons disclosed in Chapter 2 of the EIR and discussed below.

28. The HCPA certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the HCPA's independent judgment as to alternatives. The HCPA finds that the Proposed Project (Conservation Strategy A) provides the best balance between satisfaction of the project objectives and mitigation of environmental impacts to the extent feasible, as described and analyzed in the EIR. All the remaining alternatives were not selected for the following reasons.

29. Alternative 2 (Conservation Strategy B) provides a different and lower amount of land acquisition and habitat restoration than the Proposed Project. As further described in Chapter 2 of the EIR, Alternative 2 proposed conservation in different areas and less conservation overall than the Proposed Project. Conservation measures related to land management, principles of habitat restoration, and impact avoidance and minimization are the same between the two alternatives. Alternative 2 was not selected because the conservation strategy incorporated in the Proposed Project better fulfill the land use and biological goals of the HCP/NCCP as a whole.

30. Alternative 3 (Reduced Development Area) would designate a single, smaller permit area, rather than the initial and maximum urban development areas designated in the Proposed Project. Under this alternative, covered activities and projects within the urban development area would be limited to lands inside city limits that are designated for development and lands in unincorporated areas with a development land use designation in the Contra Costa County General Plan. Rural infrastructure projects and activities within the preserves, as described for the proposed HCP/NCCP, would also be covered under this alternative. Under this alternative, the permit area would be 6,991 acres, approximately 1,958 acres less than the initial urban development area and 6,225 acres less than the maximum urban development area. Land acquisition priorities identified for the initial urban development area would remain the same as the Proposed Project. Requirements for land acquisition and restoration would be reduced under because these requirements are scaled according to the level of development. All other elements would be identical to the Proposed Project. Alternative 3 was not selected because it would not provide flexibility in adapting the HCP/NCCP to future changes in land use planning over the life of the permit term. Fixing the permit area into currently designated areas for development would require costly and inefficient revision and amendment to the HCP/NCCP to adapt to future development patterns. The Proposed Project allows for flexibility within the maximum urban development area while fulfilling the biological goals of conservation and recovery for covered species in the area.

31. Alternative 4 (No-Action/No-Project) would not include the proposed HCP/NCCP, including implementation of conservation measures and creation of a Preserve System, would not be adopted, and permits pursuant to Section 10(a)(1)(B) of ESA and Section 2835 of the NCCPA would not be issued by USFWS and DFG, respectively. Compliance with ESA and CESA would continue to be addressed on a case-by-case basis. Projects and activities with a potential to affect federally listed species would be required to individually comply with ESA through either the preparation of individual HCPs and Section 10 permit application, or the Section 7

consultation process in cases in which federal authorization (e.g., Section 404 CWA permitting by USACE) or funding (e.g., Federal Highway Administration [FHWA] funding for transportation projects) are required. Section 7 compliance would focus on federally listed species and would not address state-listed or nonlisted species. In the absence of a Section 10 permit, private activities near or adjacent to the habitat of listed species would have a greater risk of take of listed species and of civil penalties and injunctive relief. Alternative 4 was not selected because it would not fulfill the purpose and need of the project.

32. Alternative 5 (No-Take Alternative). Section 10(a)(2)(A)(iii) of the federal ESA states: "No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefore submits to the Secretary a conservation plan that specifies what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized." In accordance with this requirement, the proposed HCP/NCCP considers alternatives to take for each of the federally listed species covered under the proposed HCP/NCCP (see HCP/NCCP Chapter 10, Alternatives to Take). Alternatives to take for each federally listed species were rejected in the proposed HCP/NCCP because they would not allow reasonable development consistent with the general plans of the cities or County, they would not be practicable to implement, or they would result in an outcome that is biologically inferior to that of the proposed HCP/NCCP. Alternatives to take for federally listed species were thus eliminated from further consideration in the EIR.

33. Alternative 6 (Expanded List of Covered Species). During the scoping process, it was suggested that the EIR consider an alternative that provides coverage for additional species. The Science Advisory Panel reviewed the Proposed Project covered species list and considered it appropriate. However, it did recommend reconsidering 13 species that were originally not recommended for coverage (ECCC HCP/NCCP Science Advisory Panel 2002). Of these 13 species, the HCP/NCCP consultant recommended that the ECCC HCPA consider adding the following six covered species if additional funding could be found: Peregrine Falcon; Short-eared Owl; Western pond turtle; Western spadefoot; California horned lizard; Round-leaved filaree; and Western pond turtle and round-leaved filaree were added as a result of the Science Advisory Panel's recommendation. An alternative that includes the remaining four species is not feasible because additional planning funds to add these species to the proposed HCP/NCCP has not been secured. Furthermore, adding these species would not substantially change the proposed HCP/NCCP conservation strategy. Conservation measures already proposed in the HCP/NCCP to protect and enhance grassland and oak woodland would incidentally conserve foraging habitat for peregrine falcon, potential foraging and breeding habitat for short-eared owl, foraging and breeding habitat for California horned lizard, foraging and aestivation habitat for western spadefoot. Pond protection, enhancement, restoration, and creation would also conserve habitat for western spadefoot. Species-specific conservation measures might be added to the proposed HCP/NCCP if these additional four species were added, but these measures would not substantially change the conservation strategy, its implementation cost, or its impacts. Adding these species would not reduce any environmental impacts associated with the proposed HCP/NCCP.

This alternative was eliminated from further consideration in the EIR based on it not substantially changing the project description or the project impacts.

34. Alternative 7 (ESA-Listed Species Only). Under this alternative, only those species that are federally listed as threatened or endangered would be proposed for coverage under the HCP/NCCP. The following species would be covered: San Joaquin kit fox; Alameda whipsnake; Giant garter snake; California red-legged frog; California tiger salamander; Longhorn fairy shrimp; Vernal pool fairy shrimp; Vernal pool tadpole shrimp. Under a Listed Species Only alternative, no assurances would be provided by USFWS, as part of the ITPs, that the avoidance and mitigation measures provided in the proposed HCP/NCCP would adequately conserve currently nonlisted species that may be listed during the term of the HCP/NCCP. Other sensitive species would not be covered, and take would be addressed on a project-by-project basis, like that described above for the No-Action/No-Project alternative. This alternative would not meet the Project Objectives of the HCPA to develop and implement a plan that provides comprehensive species protection, avoids future listing of species, and provides assurances that the HCP/NCCP would adequately minimize and mitigate impacts on nonlisted species that may be listed in the future. Non-coverage of additional species would also result in a loss of potential permitting efficiency, another key Project Objective. This alternative was therefore eliminated from further consideration in the EIR.

35. Alternative 8 (Preserve Acquisition Outside the Inventory Area). Under this alternative, land acquisition could occur both inside and outside the inventory area. This alternative would allow the Implementing Entity a broader geographic area in which to seek willing sellers and potentially a greater ability to target land-cover types or areas of particular importance for achieving the established biological goals and objectives. This alternative was eliminated from consideration first because it would not meet the Project Objective of the HCPA to provide for species and community conservation in eastern Contra Costa County. The first recommendation to prepare an HCP/NCCP by FWS and DFG was intended to mitigate the impacts of increased growth in this specific geographic area. Preservation and mitigation are most effective if they occur as close to the area of impact as possible. Acquisition outside the inventory area may reduce the effectiveness of the overall conservation strategy; it would also reduce the amount of funding available for acquisition of lands within the inventory area that are essential for the creation of a comprehensive management plan. In addition, many of the covered plant species are not present in the San Joaquin Valley. The ability to acquire preserve lands outside the current HCP/NCCP inventory area would be constrained by several other land use and planning considerations. Land acquisition to the west and north would be virtually precluded by existing urban areas, parklands, and the Bay-Delta. Land acquisition to the east in San Joaquin County could interfere with the land acquisition efforts necessary for San Joaquin County to meet the requirements of its approved Countywide HCP. Land acquisition to the south could interfere with conservation and land acquisition efforts being undertaken independently by a number of local agencies, including the EBRPD and the Altamont Landfill Open Space Committee. Finally, local authorities in Contra Costa County may lack jurisdiction to fully implement the proposed HCP/NCCP in Alameda or San Joaquin County since the implementing ordinance would have no affect and

enforcement would be based solely on agreements reached with individual landowners within those jurisdictions. Thus, this alternative was eliminated from further consideration in the EIR.

36. Alternative 9 (Reduced Permit Duration). Under this alternative, the term of the HCP/NCCP and the take permits would be limited to 20 years to enable local jurisdictions, permitting agencies, and the Implementing Entity to evaluate the success of the HCP/NCCP prior to full development of the expanded permit area. This alternative would not result in impacts that differ substantially from those of the proposed HCP/NCCP. Although a reduced permit term would more closely parallel the time frame of the local general plans, a longer permit term is necessary to fully implement a comprehensive regional planning and conservation strategy in eastern Contra Costa County. Limiting the term of the permit would also limit the ability of the Implementing Entity and the Permittees to secure funding from development sources to implement the regional conservation strategy. The covered activities (urban development/growth) and preserve assembly is expected to take up to 30 years. In the judgment of the HCPA, the reduced permit alternative would not cover the full duration of potential covered activities nor the conservation program implementation (including funding considerations). This alternative was eliminated from consideration in the EIR.

37. Alternative 10 (Existing Reserves Only). Under this alternative, conservation would be provided only within current park or open space lands in eastern Contra Costa County. Conservation would take the form of changes in management and habitat restoration on existing preserves to benefit covered species. This alternative would meet neither the HCP standards requiring it to mitigate to the maximum extent practicable, NCCPA requirements to conserve the covered species, nor the Project Objectives to focus on preservation of lands that are not currently protected. Existing preserves are owned by EBRPD, CCWD, California Department of Parks and Recreation, and Save Mount Diablo (the last two entities are not participating in the HCP). As a condition of the Planning Agreement for the proposed HCP/NCCP between the HCPA and DFG, it was established that existing preserves would not be relied upon in the proposed HCP/NCCP to compensate for impacts of covered activities. In addition, this alternative would also not meet the Project Objectives of satisfying the requirements for issuance of ITPs under the NCCPA. Existing reserves would provide conservation of only a limited extent of vegetation communities and species. Moreover, existing reserves are widely distributed throughout eastern Contra Costa County and do not provide adequate corridors for movement of species between areas of suitable habitat. Broader conservation and recovery, as well as avoidance of future listings, could not be provided within the limitations of existing park and open space lands. This alternative does not minimize and mitigate to the maximum extent practicable. This alternative was eliminated from consideration in the EIR

38. Alternative 11 (Modified Urban Growth Model). An alternative that assumes a “smart-growth” or other urban growth model for eastern Contra Costa County was suggested during the public scoping period for the EIR. Smart-growth or similar alternative growth models strive for new development that is more town centered; is auto-accessible while also accommodating transit and pedestrian activity; and has a

greater mix of housing, commercial, and retail uses. It also seeks to preserve open space and protect sensitive areas such as wetlands. This alternative focuses on changing land use policy as oppose to looking at alternative HCP/NCCP approaches, i.e., conservation strategies, covered species, permit duration, etc. This alternative requires changing development patterns for the purpose of creating town centers, accommodating transit and pedestrian activities, requiring greater mixed uses, preserving open space, and protecting sensitive resources. To a great extent, benefit to species would be secondary and incidental to broad reaching changes to land use policy.

The Proposed Project is the HCP/NCCP not the applicable General Plans. The HCP/NCCP is required to assess and mitigate for impacts of the "covered activities" on "covered species". In order to adequately mitigate for impacts the HCP/NCCP may limit the amount or location of development that the applicable general plans contemplate; however, the HCP/NCCP is not intended to supercede the general plans or land use authority of the applicable jurisdictions but rather to impose restrictions on the general plan implementation through consideration of regional conservation requirements necessary to protect the covered species.

The current general plans for the County and the cities are the current guide to future development in eastern Contra Costa County and are the basis or baseline for the assessment of impacts and conservation in the proposed HCP/NCCP. Alternative growth models would not be precluded under the proposed HCP/NCCP and could be implemented through the local legislative process by the applicable jurisdictions in the future. However, development of a smart-growth alternative for analysis in the EIR would require either that the local land use agencies develop and adopt new general plans policies that incorporate smart-growth as a basis for conservation planning, or that the proposed HPC/NCCP make broad assumptions about how a smart-growth alternative would be implemented by each of the local jurisdictions. The time and cost associated with development of new general plans for each applicable jurisdiction would be prohibitive and would effectively offset any efficiencies local jurisdictions would hope to achieve in preparing the proposed HCP/NCCP. Development of and reliance on a growth model that is different from the current general plans would be highly speculative due to the legislative/political nature of such an action. Accordingly, this alternative is not feasible due to legal and financial reasons. Additionally, requiring significant changes to existing general plans, does not meet the participating jurisdictions' specific CEQA goal and objective of reasonably and efficiently implementing their respective general and specific plans.

Exhibit B, Table A-1 East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan, Impact Findings

Impact	Findings	Mitigation	Rationale
Impact BIO-1: Loss of up to 4,152 Acres of Annual Grassland Habitat.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Under the HCP/NCCP, at least 13,000 acres of annual grassland outside public lands would be acquired for compensation within HCP/NCCP preserves, with the initial urban development area. As a result, approximately 66% of the total area of annual grassland in the inventory area would be preserved either in HCP/NCCP preserves or existing parks. Native grasslands would be enhanced within the Preserve System, in accordance with Conservation Measure 2.4, by using experimental burning and/or grazing techniques to enhance cover of native forbs and perennial grasses. Annual grasslands are common in the inventory area, representing 34% of the land area, and are degraded and dominated by nonnative species. The conservation measures in the proposed project would preserve and enhance native grassland.
Impact BIO-2: Loss of up to 115 acres of alkali grassland habitat.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Currently, 19% of alkali grasslands are protected within public lands. The HCP/NCCP would preserve at least 900 acres (with the initial urban development area) of the 1,618 acres of alkali grassland habitat that are currently outside of public lands, resulting in the preservation of 1,279 acres (68%) of the alkali grassland that would remain after full implementation of the HCP/NCCP. The HCP/NCCP aims to acquire large blocks of alkali grassland in Zone 5. In accordance with measures described in Chapter 6 of the HCP/NCCP, project applicants would be required to conduct pre-construction surveys to identify alkali grassland habitat and to avoid and minimize impacts whenever possible.
Impact BIO-3: Loss of up to 238 acres of oak woodland and oak savanna habitat.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	A total of 5,894 acres of oak savanna and 24,198 acres of oak woodland occur in the inventory area. Covered activties could result between 42 and 165 acres of impact to oak savanna and between 21 and 73 acres of oak woodland impact. The HCP/NCCP provides for the acquisition of at least 900 acres of oak savanna and woodland (500 acres and 400 acres, respectively) with both the initial and maximum urban development areas. Up to a total of 9,000 acres of oak savanna and woodland could be acquired in the preserve system. Impacts on oak savanna would be mitigated at a ratio of 1:1, resulting in the restoration of up to 165 acres within preserves. The HCP/NCCP contains several measures to avoid, enhance, and restore oak savanna and oak woodland (see Conservation Measures 1.1, 2.4, and 2.7).
Impact BIO-4: Loss of up to 2 Acres of chaparral/scrub habitat.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	A total of 3,016 acres of chaparral/scrub was mapped in the inventory area. The proposed HCP/NCCP requires that 550 acres of chaparral/scrub be acquired with both the initial and maximum urban development areas. Under the HCP/NCCP, the historical extent, frequency, and conditions of fire in the chaparral and coastal sage scrub within the preserves would be assessed and used to determine whether fire or other active management techniques should be used to maintain these stands. Prescribed fire may be used to maintain or enhance chaparral/scrub habitat on preserves; the vegetation would be monitored to determine the effectiveness of this management tool.

Impact	Findings	Mitigation	Rationale
Impact BIO-5: Loss of up to 35 acres of riparian woodland/scrub habitat.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	A total of 448 acres of riparian/scrub was mapped in the inventory area. The proposed HCP/NCCP requires that 60 acres of riparian/scrub be acquired with the initial urban development area and 70 acres be acquired with the maximum urban development area. Conservation Measures 2.9 and 2.10 provide for enhancement and restoration of riparian woodland/scrub. In addition, affected riparian woodland/scrub would be compensated for at a 1:1 ratio resulting in restoration of an additional 50 to 55 acres of habitat for recovery of covered species and biological diversity.
Impact BIO-6: Loss of up to 255 acres of wetlands, ponds, and sloughs, and 0.8 miles of stream.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Total acquisition would be 470 acres of wetland habitat with the maximum urban development area. Impacts to streams require preservation at a 2:1 ratio for perennial streams and a 1:1 ratio for intermittent and ephemeral streams. Impacts to perennial or intermittent streams also require restoration at a 1:1 ratio where feasible. Where infeasible, restoration of seasonal wetlands or perennial wetlands will be substituted. Measures set forth in Chapter 6 of the HCP/NCCP require project proponents to perform a wetland delineation and to document all measures that have been included for avoidance and minimization of impacts to wetlands. Conservation Measure 2.12 requires avoidance of wetland, pond, and stream habitats. Conservation Measure 2.2 requires wetland and pond enhancement and management. Conservation Measure 2.3 requires restoration or creation of between 320 and 354 acres of aquatic habitat to promote recovery of associated species.
Impact BIO-7: Loss of up to 5,011 acres of cropland or pasture.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The Plan provides for the Implementing Entity to secure acquisition or conservation easements on between 250 and 400 acres of cropland or pasture. Cropland is a common land cover in the area, representing approximately 12% of the total land cover in the inventory area, and approximately 19,808 acres would remain outside preserves or public lands after Plan implementation. In addition to the land acquisition requirements, Conservation Measures 1.3 and 2.11 provide for development of management plans for cultivated lands and for enhancement of agricultural lands to benefit covered species.
Impact BIO-8: Potential disturbance or loss of covered special-status plant and wildlife species and their habitat associated with proposed plan.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The proposed HCP/NCCP establishes a conservation strategy to avoid, minimize, and mitigate, to the maximum extent practicable, impacts to each covered species, and to establish and maintain habitat to preserve and recover each covered species. These goals are implemented through specific objectives for each covered species. These goals and objectives would be specifically implemented through a comprehensive set of landscape, vegetation, and species-specific measures. The HCP/NCCP provides for specific measures relative to each covered species and represents a complete and adequate mitigation program. In addition, the HCP/NCCP provides for acquisition of preserves comprised of suitable habitat for covered species, organized across the landscape to provide ecosystem integrity. A comprehensive monitoring and adaptive management program would be required of the Implementing Entity to examine the effectiveness of the program and to ensure that these measures are successful over time in achieving the biological goals and objectives.

Impact	Findings	Mitigation	Rationale
Impact BIO-9: Potential disturbance or loss of valley elderberry longhorn beetle and their habitat associated with the proposed plan.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure BIO-1: Conduct surveys for elderberry shrubs.	Within suitable habitat for the valley elderberry longhorn beetle a qualified biologist would identify and mark all elderberry shrubs with stems 1.0 inch or more in diameter within 100 feet of the construction area. A 100-foot buffer would be established around all elderberry shrubs, and no construction activities would be permitted within the buffer zone without consultation with USFWS. In areas where encroachment on the 100-foot buffer has been approved by USFWS, no ground-disturbing activities would be permitted within 20 feet of the dripline of each elderberry shrub unless the activity is necessary to complete the project. No riparian vegetation within 100 feet of elderberry shrubs would be removed by construction activities. This action will reduce restoration impacts to the valley elderberry longhorn beetle to a less than significant level.
Impact BIO-10. Temporary disturbance to nesting habitat for special-status bird species during restoration activities.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure BIO-2: Conduct preconstruction surveys to locate special-status bird species' nest sites or rookeries before construction is initiated and avoid breeding sites.	A qualified biologist will conduct surveys in suitable habitat to locate nest sites of the above-mentioned species in the spring of each construction year. If the survey does not identify any nesting special-status bird species in the area potentially affected by the proposed activity, no further mitigation is required. If nest sites or young are located, a no-disturbance buffer will be established around the active nest. The biologist will consult with CDFG to determine the size of the no-disturbance buffer. This action will reduce restoration impacts to the nesting birds to a less than significant level.
Impact BIO-11. Potential disturbance or loss of non-covered special-status plant species and their habitat associated with the proposed Plan.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure BIO-3. Document special status plant populations and avoid or minimize impacts.	The Implementing Entity, or its designated agents, will retain a qualified botanist to document the presence or absence of non-covered special-status plant species in the preserves. If special-status plants are found, the population would be incorporated into the project or restoration design to avoid, to the extent feasible, direct or indirect impacts to these species. Special-status plants near the project site will be protected during construction by installing environmentally sensitive area fencing (orange construction barrier fencing) around special-status plant populations. The Implementing Entity would coordinate with the appropriate agencies (CDFG, USFWS) to develop appropriate avoidance and mitigation measures. These measures will reduce impacts to special-status plants to a less than significant level.
Impact BIO-12: Potential Disturbance or Loss of Common Wildlife Species and Their Habitat Associated with Proposed Plan.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The major habitat types affected by implementation of the HCP/NCCP are abundant in the region (annual grassland and cropland). Much of the habitat that would be restored or converted is already used for agriculture or grazing activities. A change in land use would not result in significant reductions in common wildlife populations. Protection measures established to reduce impacts on covered and non-covered special-status wildlife would also function to protect common wildlife species, including migratory birds. Specific measures are included in the HCP/NCCP to avoid impacts on migratory birds protected under MBTA. The adverse of affects on birds of presently operating wind turbines in the plan area could be reduced if land with wind turbines is acquired and those turbines are subsequently removed from operation, as is encouraged under the Plan.

Impact	Findings	Mitigation	Rationale
Impact LU-1: Physically divide an established community through acquisition and preservation of lands.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The proposed HCP/NCCP would provide incidental take coverage for growth and development within the established cities and in areas necessary for development of supporting infrastructure, in exchange for conservation of key areas of habitat throughout the rural parts of East Contra Costa County. Establishment of preserves under the HCP/NCCP would occur within the six Zones. Zones 1–5 encompass all unprotected and undeveloped land in the inventory area, most of which occurs outside the current ULL. Zone 6 encompasses all cultivated agriculture outside the current ULL. These zones contain scattered residential uses, such as ranchettes. Additionally, the unincorporated communities of Byron, Knightsen, and Bay Point are located within the Zones. Although lands surrounding these communities are proposed for preserve acquisition, land within the communities would not be acquired. Thus, acquisition of lands for conservation purposes, preserve development, potential recreational uses, and ongoing preserve maintenance activities would not physically divide any established communities in the inventory area.
Impact LU-2: Incompatibility of preserves with existing land uses.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Existing land uses in Zones 1–5 include grazing and other agricultural production, while the predominant existing use in Zone 6 is cultivated agriculture. Establishment of preserves in Zones 1–5 would result in minor land use changes. While lands would remain undeveloped, they would be managed primarily for covered species protection and enhancement, with some passive recreational use allowed. In accordance with Conservation Measure 1.2, grazing is expected to continue as a management tool on many of the preserve lands that are acquired in Zones 1–5. If necessary, grazing practices may be modified and brought into compliance with the proposed HCP/NCCP's conservation strategy and adaptive management framework. Such modifications could include shifting grazing regimes from year-round to seasonal or changes in grazing intensity, duration, and location. In accordance with Conservation Measure 1.1, preserve lands in Zone 6 would be acquired through purchase of conservation easements that would provide for continued agricultural use of the land. Such easements would help achieve the biological goals and objectives of the HCP/NCCP while allowing continuation of current agricultural use. Conservation Measure 1.3 further describes the need for agricultural management plans for preserved croplands and pasturelands. These plans would describe the agricultural practices that would be undertaken to ensure the land's suitability for covered species. Conservation Measure 1.3 also indicates that habitat maintenance and enhancement measures would be compatible with maintaining the ongoing economic viability of agricultural use. The impact on existing land uses between the initial urban development area and the maximum urban development area would be comparable, although additional preservation under the latter would result in slightly greater potential for impact on surrounding land uses. Measures included in the proposed HCP/NCCP to reduce incompatibilities with surrounding land uses would be effective at reducing any impacts on additional land acquisitions.

Impact	Findings	Mitigation	Rationale
Impact LU-3: Incompatibility of preserves with adjacent land uses.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The proposed HCP/NCCP preserve design strategy would follow principles of conservation biology that seek to avoid biological incompatibilities between adjacent uses, including maximizing preserve size, minimizing the number of preserves, limiting edge effects, and buffering urban impacts. With certain provisions and restrictions, agricultural lands within 1.0 mile of the preserve boundary would also be eligible for take coverage during the course of routine agricultural activities and during the permit term of the HCP/NCCP. Conservation Measure 1.9 would apply to preserves that occur at the edge of the HCP/NCCP urban development area or adjacent to areas with moderate or high priorities for land acquisition. It includes multiple design elements that would be considered for the urban-wildland interface to reduce potential incompatibilities. Specific elements include buffers, fencing, trails, minor roads with permanent wildlife barriers, access restrictions, and noninvasive and fire-resistant landscaping. Conservation Measure 1.8 would provide for buffer zones between preserves and adjacent developed or agricultural lands to "eliminate or minimize the potential adverse effects of adjacent urban and agricultural uses on sensitive preserved, enhanced, restored, and created natural communities and covered species habitats." Conservation Measure 1.5 would provide that as part of the recreation plan developed for preserve lands, new trails will be sited to minimize impacts on sensitive species and communities, including covered species, and disturbance to adjacent landowners and land uses. These conservation measures would be considered effective means of reducing potential land use incompatibility between the preserves and adjacent uses.

Impact	Findings	Mitigation	Rationale
Impact LU-4: Potential inconsistencies between preserve land acquisition and local land use plans and policies.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Acquisition of preserve lands within city ULLs or within planned areas outside city ULL may conflict with certain long-term policy and planning objectives set forth in City general plans. Although policies established in current City general plans are not applicable to unincorporated lands, they provide a good indication of areas where future annexations and ULL adjustments may be proposed. The acquisition of land in Subzones 1a, 2e, and 2f could have a potential conflict with certain long-range development objectives of the Cities of Pittsburg, Antioch or Brentwood for certain areas. Some of these areas are within the recent City-adopted ULLs in Pittsburg and Antioch. The HCP/NCCP provides for a maximum urban development area that allows flexibility in terms of adapting preserve acquisition strategies to minimize inconsistencies between local land use planning and HCP/NCCP implementation. The potential preserve zones identified are larger than the target preserve size, which also allows flexibility to minimize potential land use conflicts. Overall, given the amount of developable land in the permit area and the flexible approach to HCP/NCCP preserver assembly, the project is not expected to result in a significant impact on local City land use plans and policies. Nearly all land and easement acquisition in unincorporated parts of the county would be in areas that are designated as Agricultural Lands (AL). Preserve lands would be managed for the benefit of covered species and habitat; however, agricultural use of much of the preserve land is anticipated to continue. Some acquisitions are proposed in unincorporated areas that are designated as Agricultural Core (AC) but such acquisitions of land or easements (easements are more likely) would allow for continued agricultural use, and would be consistent with plans or policies.
Impact LU-5: Potential conflicts of preserves with applicable rural land use designations.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The majority of lands in Zones 1–6 are outside the ULL and are designated as Agricultural Lands or Agricultural Core in the Contra Costa County General Plan Land Use Element. Zones 1–5, where the primary use is livestock grazing, are predominantly designated as AL. The Contra Costa County General Plan indicates that while the AL designation is intended to be descriptive of the predominant land-intensive agricultural uses in these areas, other uses such as open space and other non-urban uses are allowed. Although management of preserves in areas where livestock grazing occurs would change, grazing is expected to continue on most lands. Preserve acquisition in Zone 6 would not conflict with the AC and AL designations in this area because lands would be acquired in easement to ensure the maintenance of economically viable agricultural operations in the zone.
Impact LU-6: Potential conflicts with existing HCPs.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The HCP/NCCP would not conflict with the biological goals and objectives or other conservation planning occurring in San Joaquin or Alameda County. Implementation of the HCP/NCCP may have a beneficial impact on land use by coordinating acquisition with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and conservation in Alameda County, and thereby avoiding potential land use incompatibilities.

Impact	Findings	Mitigation	Rationale
Impact LU-7: Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The HCP/NCCP is not expected to be a substantial impediment to meeting current or future residential development needs, including affordable housing allocations. All of the local jurisdictions (Pittsburg, Antioch, Brentwood, and Oakley) have identified that they have sufficient residentially-designated land within their current city limits to meet their current and future regional housing needs, including affordable housing. In the long-term there are several compatibility conflicts between areas outside the city limits that are designated high-priority HCP/NCCP acquisition areas and are designated for residential use. However, most of these areas are located in the foothills, and are designated for low-density housing. These areas are likely to provide market rate housing, not low-income housing which is usually provided within city limits in areas designated for medium and high-density residential development. Overall, given the local jurisdiction identification of substantial available acreage for residential development and that the limited areas of conflict primarily concern market-rate housing, the HCP/NCCP is not likely to result in a disproportionate impact on low-income housing utilized by economically disadvantaged residents of eastern county. In the long-term, Pittsburg, Antioch, and Brentwood may need to adjust the location of future residential development depending on where HCP/NCCP acquisitions actually occur, but given the ample opportunity lands that are identified in the local jurisdictional housing elements and the flexibility in the preserve system assembly, there is no substantial evidence that the HCP/NCCP will hinder the ability of the local jurisdictions to meet their regional housing allocations.
Impact AG-1: Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to nonagricultural use.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The amount of Prime, Statewide, and Unique Farmland in Zones 1–5 that may be converted to nonagricultural uses under the Plan is small and represents only a fraction of the total amount of Prime, Statewide, and Unique Farmland within the county. Most of the agricultural land acquired by the implementing entity would remain in some form of agricultural production. Because only a small area or important farmland (prime, statewide, or unique) may be converted and agricultural would continue in most acquired areas, this impact is considered less than significant.
Impact AG-2: Conflict with existing zoning for agricultural use or a Williamson Act contract.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Acquisition Zones 1–5 contain large amounts of non-prime land enrolled under the Williamson Act. Land within Zones 1–5 would be acquired primarily in-fee. Because public agencies are not eligible for coverage under a Williamson Act contract, any of these contracted lands in Zones 1–5 that are purchased in-fee or donated in-lieu of payment to the Implementing Entity would be removed from Williamson Act contract. Although the contract would be voided, the land would remain in agricultural production or as open space, a use that is compatible with a Williamson Act contract, and would create no physical change in the environment. In accordance with Government Code Section 51291(b), the Implementing Entity would be required to notify the Director of the California Department of Conservation and the Contra Costa County Community Development Department of Williamson Act–contracted land proposed for acquisition. Thus, there would be no physical significant impact on the environment from removal of these lands from Williamson Act contract.

Impact	Findings	Mitigation	Rationale
Impact PS-1: Increased demand for fire protection services as a result of increased recreation and use of prescribed burns.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The HCP/NCCP would result in the creation of new recreational areas which would lead to an increase in the number of visitors to these areas. The risk of fire would likely increase, because more people would be participating in recreational activities that may pose potential fire hazards. Possible human activities that may increase the fire risk include campfires, cigarette smoking, and barbeques. In addition, prescribed burning would occasionally be used in the preserves for vegetation management. ECCFPD typically responds to fires, including structural and wildland fires, in the unincorporated areas of the county, and would be called on to respond to fires in the Preserve System. Although the fire risk would increase from the activities mentioned above, the implementation of the Preserve System would be a gradual process requiring years. ECCFPD currently has adequate existing or planned facilities to address the potential increased need presented by the proposed Preserve System. Funding for additional fire protection would be achieved through provisions in Chapter 9 of the proposed HCP/NCCP
Impact PS-2: Increased demand for police protection services due to increased recreational use in the preserves.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The Preserve System would attract new visitors to areas that currently do not experience a high volume of human activity. Accordingly, the addition of recreational areas would increase the demand for law enforcement within the preserves. The Contra Costa County Sheriff's Department responds to incidents in the unincorporated areas of the County and would be responsible for protecting the preserves. EBRPD Police also respond to incidents within and near regional parks and preserves. The current network of stations is believed to be adequate to provide any additional police services required by the creation of preserves in the unincorporated areas . Moreover, funding for any additional police protection would be achieved through provisions in Chapter 9 of the proposed HCP/NCCP.
Impact PS-3: Increase in recreational opportunities and parklands in East Contra Costa County.	Beneficial	None Required	The HCP/NCCP would increase the amount of recreational land in East Contra Costa County, creating a beneficial impact.
Impact WTR-1: Potential for short-term degradation of surface water quality from construction associated with urban growth and infrastructure projects.	*Impacts will be less than significant; no mitigation measures are required.* *Project-level mitigation for urban growth and infrastructure projects is within the jurisdiction of local land use authorities and the RWQCBs and is feasible.*	Project-level mitigation, as determined necessary, by land use authorities	Potentially significant short-term water quality impacts from urban development and infrastructure projects covered in the HCP/NCCP would be reduced to a less-than-significant level by the implementation of the Conditions on Covered Activities included in Chapter 6 of the HCP/NCCP, existing water quality regulations, and by any additional project-level mitigation determined to be necessary during project-level land use permit processing and CEQA analysis. The HCP/NCCP does not authorize individual projects. Construction BMPs are routinely implemented, are feasible, and are within the authority of the local land use authorities and the San Francisco and Central Valley Regional Water Quality Control boards.

Impact	Findings	Mitigation	Rationale
Impact WTR-2: Potential for long-term degradation of surface or groundwater quality, alteration of drainage patterns, increased flooding potential associated with urban growth and infrastructure projects.	*Impacts will be less than significant; no mitigation measures are required.* *Project-level mitigation for urban growth and infrastructure projects is within the jurisdiction of local land use authorities and the RWQCBs and is feasible.*	Project-level mitigation, as determined necessary, by land use authorities	Potentially significant long-term water quality impacts from urban development and infrastructure projects covered in the HCP/NCCP would be reduced to a less-than-significant level by the implementation of the Conservation Measures included in Chapter 6 of the HCP/NCCP and by any additional project-level mitigation determined to be necessary during project -level permit processing and CEQA analysis. The HCP/NCCP does not authorize individual projects. Project-level drainage BMPs are routinely implemented, are feasible, and are within the authority of the local land use authorities and the San Francisco and Central Valley Regional Water Quality Control boards.
Impact WTR-3: Potential for short-term degradation of surface water quality from activities in HCP/NCCP preserves.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation WTR-1: Implement erosion and sediment control BMPs.	The Implementing Entity or its designated agents will implement multiple erosion and sediment control BMPs in areas with potential to drain to surface waters. These BMPs will be selected to achieve maximum sediment removal and represent the best available technology that is economically achievable. BMPs to be implemented as part of this mitigation measure could include temporary erosion control measures, protection of drainage facilities in downstream offsite areas, and establishment of grass or other vegetative cover as soon as possible after disturbance. BMPs would be consistent with Contra Costa County and participating city ordinances, and with grading, erosion, and sediment control standards. These measures will reduce short-term water quality effects of preserve activity to a less than significant level.
Impact WTR-4: Potential for long-term degradation of surface or groundwater quality, alteration of drainage patterns, increased flooding potential from activities in HCP/NCCP preserves.	Beneficial	None Required	The proposed HCP/NCCP outlines methods to enhance and maintain water quality, prevent siltation, and enhance flood protection (Conservation Measures 1.7 and 1.10). The conservation measures establish buffers between urban development and protected streams to protect uplands and wetlands within the proposed HCP/NCCP preserves. The buffer zones would reduce the potential for flooding through the establishment of a floodplain and meandering channel. Impacts on people or structures from flooding would be reduced through implementation of the HCP/NCCP. The overall impact would be beneficial.

Impact	Findings	Mitigation	Rationale
Impact SOCIO-1: Effects on employment, industry, or commerce, or displacement of businesses or farms from implementation of the proposed Plan.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Implementation of the proposed HCP/NCCP and issuance of take permits would change development conditions, which could in turn affect the overall economic and market climate in the area. The HCP/NCCP also makes specific requirements of project applicants. These costs may be minor in some cases, such as biological survey costs, or may have higher costs, such as reduced development footprints and greater setbacks. These measures may reduce the developable area of a property. However, existing biological constraints would affect development potential with or without the project and likely result in similar or even higher costs due to the current lack of a coordinated conservation strategy. Thus, the addition of conditions on covered activities would not represent an undue burden that would be expected to displace development and result in significant secondary physical effects on the environment in other locations. The acquisition of lands for preserves and management for purposes of biological resources could have implications for the development potential of certain lands. The decision to acquire land for HCP/NCCP preserves would rely on identification of willing sellers and a determination that subject properties are suitable. Overall, as disclosed in the EIR, the project is flexible in accommodating future development in accordance with general plans, and acquisition is primarily focused in lands outside of those designated for urban development. Thus, land acquisition while it may affect specific parcel development potential, would not overall impede the ability for growth to occur in the plan area. Cultivated agricultural lands in Contra Costa County are primarily in the far eastern portions of the county, in and around an area designated in the County General Plan as AC. The HCP/NCCP contemplates land acquisition in the County's AC, but most land acquired in this area would be acquired through conservation easement. Lands acquired by conservation easement would permit continued agricultural use. Agricultural management plans will be prepared for preserved croplands and pasturelands (Conservation Measure 1.3). Changes in agricultural practices (e.g., use of pesticides or herbicides, schedule of activities) may be required as conditions of the proposed HCP/NCCP easement, but the conditions would be compatible with maintaining the ongoing economical viability of agricultural use. The use of conservation easements within this area would avoid displacing any farms and avoid substantially affecting the major economically productive lands in the county. Agricultural lands elsewhere in the county are primarily grazing lands with limited areas of hay or cultivated crops. However, lands currently in agriculture would likely continue in agricultural use under lease to farmers and under prescribed protocols of an agricultural land management plan. Grazing would be continued or used on many of the acquired preserve lands to support vegetation management objectives (Conservation Measure 1.2). The HCP/NCCP would thus not affect regional economy, substantially displace farms, or permanently change the conditions that affect individual businesses or the local economic climate (land use, transportation systems, customer base, etc.).

Impact	Findings	Mitigation	Rationale
Impact SOCIO-2: Potential effects on property values or local tax base from acquisition of land for preserves.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Property values are dependent on a wide range of site-specific and broad geographic considerations, such as size and shape of the property, accessibility and visibility, environmental conditions, legal constraints, utilities, zoning and regulation, land supply, and overall economic climate. The proposed Project would not rezone any parcels, introduce any new or substantially different uses, or alter or expand any support infrastructure to these areas (e.g., expand water service, improve transportation network) such that the value of surrounding lands would be affected. Land acquisition under the proposed HCP/NCCP could indirectly affect property values by influencing a number of land valuation factors. Land acquisition for preserves would result in specific restrictions on the use of individual preserve properties. The extent and type of restrictions would be highly variable, depending on the current conditions and use of the property. For example, agricultural lands acquired may continue in agriculture use, but with minor conditions on use to enhance biological values. Restrictions on use of property could be perceived in the marketplace as detrimental to the value of adjacent agricultural properties. The proposed HCP/NCCP provides take coverage for adjacent agricultural parcels to prevent impacts on surrounding agricultural practices. Other more intensively managed lands in proximity to preserves (i.e., commercial or industrial uses) would not likely be affected to any measurable degree, because these lands offer little habitat value that would attract sensitive species. Similarly, acquisition and maintenance of lands in open space could increase property values. Implementation of the HCP/NCCP could result in land speculation, whereby lands are purchased with the intent to resell to the HCP/NCCP Implementing Entity at a profit. Land speculation is not likely to be substantial in East Contra Costa County due to the broad areas that are suitable for acquisition. Land acquisition for open space is also viewed as an important amenity in the regional context and could have a positive effect on land values. Preserved lands in proximity to developed areas, but within the region, is a substantial component of property values of the residential housing market. Finally, land acquisition under the HCP/NCCP could affect the local tax base by removing lands from the County tax rolls. Lands acquired through conservation easement would continue to be taxed as agricultural lands and would not affect the tax base. Land acquired in fee title would be broadly distributed throughout inventory area. Because the HCP/NCCP does not specify the amount of in-fee versus easement acquisition, or specific parcels for acquisition, a detailed determination of impact on the tax base is not feasible. Based on a tax rate of 1.20%, the potential maximum reduction in property tax receipts is estimated as $2,124,000. The property tax roll for land in Contra Costa County in 2003 was approximately $40,483,000,000. The loss in property tax under the HCP/NCCP would represent approximately 0.005% of the County's annual property tax revenue and is not considered significant.

Impact	Findings	Mitigation	Rationale
Impact SOCIO-3: Potential effects on minority, low-income, elderly, disabled, transit-dependent, or other specific interest groups from acquisition of land for preserves.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	All of the local jurisdictions (Pittsburg, Antioch, Brentwood, and Oakley) have identified that they have sufficient residentially-designated land within their current city limits to meet their current and future regional housing needs, including affordable housing. In the long-term there are several compatibility conflicts between areas outside the city limits that are designated high-priority HCP/NCCP acquisition areas and are designated for residential use. However, most of these areas are located in the foothills, and are designated for low-density housing. These areas are likely to provide market rate housing, not low-income housing which is usually provided within city limits in areas designated for medium and high-density residential development. Overall, given the City's own identification of substantial available acreage for residential development and that the limited areas of conflict primarily concern market-rate housing, the HCP/NCCP is not likely to result in a disproportionate impact on low-income housing utilized by economically disadvantaged residents of the eastern county. In the long-term, Pittsburg, Antioch, and Brentwood may need to adjust the location of future residential development depending on where HCP/NCCP acquisitions actually occur, but given the ample opportunity lands that are identified in the local jurisdictional housing elements and the flexibility in the preserve system assembly, there is no substantial evidence that the HCP/NCCP will hinder the ability of the local jurisdictions to meet their long-term regional housing allocations including those for affordable housing. Removal of lands from agricultural production could result in a loss of agricultural jobs, an employment sector that has a large percentage of minority and low-income workers. The HCP/NCCP could potentially remove from production less than 1% of irrigated agricultural land including cropland, vineyards, and orchards. The loss in land available for agricultural use would be offset in part by the purchase of easements on agricultural lands that would ensure continued agricultural use. The proposed project is likely to have only a minor impact on the agricultural economy, and it would not disproportionately affect minority, low income, elderly, disabled, transit-dependent, or other interest groups.
Impact GEO-1: Expose people or structures to rupture of a known earthquake fault, strong seismic ground shaking, or seismic-related ground failure.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	No structures for human occupancy are proposed for construction to support implementation of the HCP/NCCP or the Preserve System. Any minor construction, such as installation of restrooms, would be built according to appropriate standards, including the current UBC and California Building Standards Code (CBSC).

Impact	Findings	Mitigation	Rationale
Impact GEO-2: Expose people or structures to landslides.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	In the unincorporated portions of the County, restoration or other activities requiring substantial grading (more than 200 cubic yards of soil) would require the Implementing Entity to obtain a grading permit from the County Department of Building Inspection. In order to obtain a grading permit, the Implementing Entity would be required to retain a qualified professional to conduct site-specific geotechnical investigations consistent with all applicable standards of professional engineering geologic/geotechnical practice. These investigations would be conducted once land has been designated for restoration/creation and will provide a geologic basis for the development of appropriate project design. Earthwork recommendations to ensure slope stability and erosion controls, based on site conditions, would be incorporated into the project construction documents. The Implementing Entity may also be required to secure an NPDES permit as part of the grading permit (see also Mitigation Measure WQ-1). Periodic monitoring and inspection during construction would be conducted by County staff to ensure proper implementation of all design recommendations as stated in County regulations. No structures for human occupancy are proposed for construction to support implementation of the Plan or the Preserve System. Earthwork would take place only in areas not open to the public. Consequently, there is no additional risk to humans or structures from habitat restoration or creation activities.
Impact GEO-3: Result in substantial soil erosion or loss of topsoil.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation WTR-1: Implement erosion and sediment control BMPs.	Restoration activities would include ground-disturbing earthwork such as digging, trenching, grading, and other activities that may promote soil erosion and/or loss of topsoil. Mitigation Measure WQ-1 states that the Implementing Entity, when undertaking such ground-disturbing activities, will require implementation of appropriate BMPs and, if activities would disturb more than 1 acre of land, prepare and implement a SWPPP subject to requirements of Section 402 of the federal CWA and NPDES. The SWPPP would include BMPs to control erosion and sedimentation. If more than 1 acre of land is disturbed during the restoration or creation activities in the Preserve System, the Implementing Entity would be required to obtain and implement the SWPPP. The specific acreage of land that will be disturbed will not be known until land acquisition of each parcel takes place. If necessary, the Implementing Entity would be responsible for monitoring to ensure the SWPPP is enforced. Adherence to existing regulations and implementation of Mitigation Measure WQ-1 would reduce this impact to a less-than-significant level.
Impact GEO-4: Be located on expansive soil.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	When building on expansive soils, some construction materials (e.g., steel or concrete) may become corrosive. Compliance with the California Building Standards Code, which contains provisions for design and construction on expansive soils, is required in order to prevent corrosion.

Impact	Findings	Mitigation	Rationale
Impact CR-1: Potential impacts on known or unknown cultural resources, cultural deposits, or human remains.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure CR-1: Develop HCP/NCCP cultural resources management plan. Mitigation Measure CR-2: Stop work if cultural materials are discovered during ground-disturbing activities.	Preserve activities would be controlled by the cultural resources management plan which will establish an area of potential effect, summarize known resources, identify areas of potential cultural sensitivity, establish mitigation and recordation measures to treat the adverse effects of undertakings such a relocation (of individual structures), recordation, data recovery, and curation. If archaeological deposits, such as chipped stone or groundstone, historic debris, or building foundations, are discovered during construction-related activities, all ground-disturbing activities will cease within a 100-foot radius. A qualified archaeologist will be notified immediately to assess the discovery and identified appropriate treatment measures. If human remains of Native American origin are discovered during ground-disturbing activities, restoration activity will comply with state laws regarding the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Pub.Res. Code Sec. 5097). This mitigation is feasible and will lower potential impacts to a less than significant level.
Impact TRA-1: Temporary construction-related traffic increases and traffic safety hazards.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure TR-1: Prepare and implement a traffic control plan.	For any restoration or construction activity requiring a grading permit from the County or a city, the Implementing Entity or its designated contractor will, as part of the application for a grading permit, prepare a traffic control plan to address construction-related traffic nuisances and public safety. These plans are feasible, commonly implemented, and would reduce traffic impacts to a less than significant level.
Impact TRA-2: Potential conflicts with transportation plans, programs, and planned projects.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation TRA-2: Avoid planned transportation improvement sites.	As part of the process of identifying suitable sites for proposed HCP/NCCP land acquisition, the Implementing Entity will avoid lands that are within or adjacent to proposed alignments for the following planned transportation projects: Byron Highway-Vasco Road Connector, Kirker Pass Road widening. Marsh Creek Road realignment at selected curves, Vasco Road widening/SR 84, Bridge replacement, repair, and retrofit, Marsh Creek regional trail, and SR 239 (Brentwood–Tracy Expressway). These projects are identified in CCTA's Contra Costa CTP or MTC's RTP. Lands within or adjacent to the proposed rights-of-way should not be considered for acquisition unless it is determined that, as part of acquisition, adequate avoidance and minimization measures could be provided to permit construction of the proposed project and avoid inconsistencies with the goals and objectives of the proposed HCP/NCCP. The implementation of this measure will reduce transportation impacts to a less than significant level because of the avoidance of conflict with planned transportation improvement sites.

Impact	Findings	Mitigation	Rationale
Impact TRA-3: Potential traffic increases from proposed HCP/NCCP implementation, including operation and maintenance of preserves.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	There would be only minor changes in traffic on the roadways due to vehicle trips associated with Plan implementation. Approximately 10 key positions have been identified in the HCP/NCCP as necessary to implement the Plan. These positions may be filled by staff in different agencies, contracted to private specialists, filled at different stages of Plan implementation, or combined. Most vehicle trips would be broadly distributed: they would be associated with species surveys and investigation of potential lands for acquisition, and with operation, maintenance, and passive recreational use of preserves. Although the exact locations of preserves and affected roadways cannot be identified, the establishment of preserves would result in only minor additional vehicle trips. Operation would not generate sufficient additional travel to result in long-term degradation of LOS on adjacent streets.
Impact NOISE-1: Exposure of noise-sensitive land uses to construction-related noise.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure NOISE-1: Employ noise-reducing construction practices.	To reduce noise levels to the maximum extent practicable, the restoration contractor will employ the specific identified noise-reducing construction practices. These measures are feasible and can reduce noise impacts to a less than significant level.
Impact NOISE-2: Potential permanent exposure of noise-sensitive land uses to noise levels in excess of established standards.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Ongoing activities at the preserves are not expected to create substantial new sources of noise, as they would not generally involve noise-generating actions. Any new noise generated by these activities would be minimal and is not expected to exceed County or city standards.
Impact NOISE-3: Potential increases in traffic noise levels.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	Implementation of the proposed NCP/HCCP would result in minor increases in traffic associated with habitat restoration and construction in different locations throughout the inventory area. Activities associated with preserve enhancement or construction would be expected to generate a low number of daily trips by both construction workers and trucks, and would not significantly affect noise conditions in the area crossed by the proposed access easement.
Impact AIR-1: Short-term increase in emissions from construction activities.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure AIR-1: Implement NOx-reducing construction practices. Mitigation Measure AIR-2: Implement PM10-reducing construction practices.	The project proponent will implement NOx-reducing and PM 10-reducing construction practices, as required, during construction of preserve elements. These measures are feasible and can reduce noise impacts to a less than significant level.

Impact	Findings	Mitigation	Rationale
Impact AIR-2: Short-term increases in CO, ROG, PM10, and NOx from prescribed burning.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure AIR-3: Comply with California Air Resource Board's (ARB's) Smoke Management Guidelines for Agricultural and Prescribed Burning. Mitigation Measure AIR-4: Comply with BAAQMD Regulation 5 requirements for wildland vegetation management burning.	The proposed HCP/NCCP will comply fully with ARB's Smoke Management Guidelines for Agricultural and Prescribed Burning. California's Smoke Management Program addresses potentially harmful smoke impacts from agricultural, forest, and rangeland management burning operations. The proposed NCP/HCCP will comply fully with BAAQMD Regulation 5 requirements for all prescribed burns. Compliance entails submission of a smoke management plan for each burn. Each smoke management plan will include specific objectives of the burn, acreage, tonnage to be burned, burn schedule, and particulate matter emissions estimates. If burning were to significantly change from what was originally detailed in the smoke management plan, consultation with BAAQMD staff would be required, and a new smoke management plan may be required, depending on the type of burn. The implementation of these two measures will reduce impacts to a less than significant level as implementation of the ARB and BAAQMD guidelines for prescribed burning are designed to reduce the impacts of such activities on regional air quality.
Impact AIR-3: Determination of Conformity with the State Implementation Plan.	*Impacts will be less than significant; no mitigation measures are required.*	None Required	The HCP/NCCP would result in annual emissions of 0.11 tons per year of ROG and 1.31 tons per year of NOx. Conformity calculations are provided in Appendix E. These emissions would not exceed the de minimus thresholds of 50 tons per year for these ozone precursors.
Impact AIR-4: Short-term increase in emissions from construction activities.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure AIR-5: Implement BAAQMD requirements for the management of PM10.	The project proponent will implement PM 10-reducing construction practices, as required, during construction of preserve elements. These measures are feasible and can reduce air quality impacts to a less than significant level.

Impact	Findings	Mitigation	Rationale
Impact AIR-5: Short-term increases in CO, ROG, PM10, and NOx from prescribed burning.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation Measure AIR-3: Comply with California Air Resource Board's (ARB's) Smoke Management Guidelines for Agricultural and Prescribed Burning. Mitigation Measure AIR-4: Comply with BAAQMD Regulation 5 requirements for wildland vegetation management burning.	The proposed HCP/NCCP will comply fully with ARB's Smoke Management Guidelines for Agricultural and Prescribed Burning. California's Smoke Management Program addresses potentially harmful smoke impacts from agricultural, forest, and rangeland management burning operations. The proposed NCP/HCCP will comply fully with BAAQMD Regulation 5 requirements for all prescribed burns. Compliance entails submission of a smoke management plan for each burn. Each smoke management plan will include specific objectives of the burn, acreage, tonnage to be burned, burn schedule, and particulate matter emissions estimates. If burning were to significantly change from what was originally detailed in the smoke management plan, consultation with BAAQMD staff would be required, and a new smoke management plan may be required, depending on the type of burn. The implementation of these two measures will reduce impacts to a less than significant level as implementation of the ARB and BAAQMD guidelines for prescribed burning are designed to reduce the impacts of such activities on regional air quality.
Impact MIN-1: Loss of availability of a known mineral resource that would be a value to the region and the residents of the state, or loss of availability of a locally important mineral resource recovery site.	*Mitigation measures have been adopted to avoid or substantially reduce the magnitude of the impact. Adopted mitigation measures are fully implementable by the Implementing Entity.*	Mitigation MIN-1: Evaluate mineral resources.	The Implementing Entity shall, when evaluating lands for acquisition in Zones 3 and 5, determine if the lands are within mineral resource protection areas designated in the Contra Costa County General Plan. Lands within the mineral resource protection area will be considered for acquisition only if the Implementing Entity determines that acquisition would not impair future mineral resource extraction in the area by introducing an inherently incompatible use, or by restricting access to other mineral resource areas. Lands adjacent or in proximity to the designated mineral protection area will also be evaluated to assess compatibility with potential future mineral extraction operations, such as quarry transport trucks. This measure is feasible and will substantially avoid the loss of valuable mineral resources and thus result in a less than significant impact.

Exhibit C

East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan Mitigation Monitoring and Reporting Plan

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November 2006

Jones & Stokes. 2006. East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan, Mitigation Monitoring and Reporting Plan. November. (J&S 01478.01.) Oakland, CA.

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Table 1. Mitigation Monitoring Plan for the East Contra Costa County HCP/NCCP ..... follows page 1

Mitigation Monitoring and
Reporting Plan
Introduction

Purpose of and Need for Monitoring

In compliance with the California Environmental Quality Act (CEQA), an environmental impact report (EIR) was prepared for the East Contra Costa County Habitat Conservation Plan / Natural Community Conservation Plan (HCP/NCCP) (Proposed Project). The EIR identified significant impacts in the following resource areas. The EIR also identified mitigation measures to reduce these impacts to less than significant levels:

- Biological resources
- Hydrology and water quality
- Cultural resources
- Traffic and circulation
- Noise
- Air quality
- Mineral Resources

CEQA requires that a lead agency adopt a mitigation monitoring and reporting plan (MMRP) for the revisions the agency has required to a project and the measures it has proposed to avoid or mitigate significant environmental effects (CEQA Guidelines Section 15097). The purpose of the MMRP is to ensure that the project revisions and mitigation measures identified in the EIR are implemented and to identify who is responsible for their implementation.

Table 1 of this MMRP, which follows this introductory section, identifies the mitigation measures for the Proposed Project and identifies the parties responsible for implementing and monitoring the mitigation measures, as well as the timing of the mitigation.

Project Description

The proposed HCP/NCCP plan contains the elements described below.

Permit Areas

Two permit areas which reflect the range of expected growth in the area would be established.

- An initial urban development area (which would authorize 9,796 acres of ground-disturbing urban development activities).
- A maximum urban development area (which would authorize up to 13,029 acres of ground-disturbing urban development activities).

Covered Activities

Covered activities (i.e., specific activities or projects) in the proposed HCP/NCCP which would be permitted by DFG and USFWS include the followingthree distinct categories.

- Activities and projects associated with urban growth, in accord with local general plans.
- Specific infrastructure projects outside the Urban Limit Line (ULL). The proposed plan would allow up to 1,126 acres of impact from rural infrastructure projects for either the initial or maximum urban development area.
- The following activities inside the proposed HCP/NCCP preserves:
    - construction and maintenance of recreational or management facilities,
    - habitat enhancement, restoration, and creation,
    - management activities necessary to achieve the HCP/NCCP's biological goals,
    - surveys for covered species, vegetation communities, and other resources,
    - agricultural activities on adjoining land within one mile of the preserve boundary,
    - low-intensity recreational use, and
    - construction and maintenance of utility infrastructure.

Other activities or projects not specifically described above may be evaluated for coverage under the proposed HCP/NCCP on a case-by-case basis.

Preserve System

The main element of the proposed HCP/NCCP conservation strategy is the creation of a Preserve System that would preserve approximately 23,800 acres of land with the initial urban development area, or approximately 30,300 acres of

land under the maximum urban development area. Likely locations for land acquisition have been divided into Acquisition Analysis Zones, and are under study as detailed in Chapter 2 of the EIR.

Conservation Measures

The proposed HCP/NCCP conservation measures address the landscape-level, community-level (or habitat), and species-level impacts, and includes measures to address the following objectives.

- Design of covered activities to avoid or minimize impacts on covered species and covered vegetation communities.
- Preservation of covered vegetation communities.
- Preservation of covered species populations and habitats.
- Restoration of covered species habitat and vegetation communities to compensate for direct and indirect impacts on specific species and vegetation communities.
- Restoration of species habitat to contribute to the recovery of listed covered species and help prevent the listing of non-listed covered species.
- Management of preserves to maximize the functions of habitats for covered species.

Mitigation Monitoring Program

This MMRP has been prepared for the Proposed Project in accordance with Public Resources Code 21081.6, which specifies that when a public agency makes findings required by paragraph (1) of subdivision (a) of Section 21081, it "...shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment." Public Resources Code 21081.6 further specifies that the MMRP will "...ensure compliance during project implementation." This MMRP is intended to ensure the effective implementation of mitigation measure, including monitoring where identified, throughout all phases of development and operation of the Proposed Project.

The HCP/NCCP Implementing Entity (IE) will be the primary agent responsible for implementation, monitoring, and reporting related to the MMRP.

Procedures for Construction Monitoring and Reporting

Monitoring and reporting procedures prior to and during project construction and operation will conform to the following steps.

Step 1. Monitoring

This step will be executed by a monitor designated by the IE. The monitor will investigate noncompliance allegations and identify how IE staff or its designees should correct implementation of the mitigation measure to ensure compliance.

The monitor will have the following responsibilities:

- Prepare an implementation plan prior to execution of contracts and prior to advertisement of bid documents to detail the monitoring actions and compliance requirements listed in this MMRP.
- Be knowledgeable in the mitigation that is to be monitored.
- Verify implementation of mitigation by:
    - verifying, prior to advertisement for contract bids, that bid documents, contracts, plans, and specifications include requirements to implement identified mitigation measures;
    - verifying in the field that required implementation has been properly executed during and after construction; and
    - contacting the project manager and requesting that the situation be remedied if mitigation is not being implemented or executed properly.
- Prepare mitigation status reports and submit to the IE, as identified in Step 3 of this MMRP.

Step 2. Action

This step will be executed by the IE project manager (IE PM) for specific restoration activities. During construction activities associated with the HCP/NCCP (e.g restoration activities), the IE PM will document monthly all actions taken as part of this MMRP and report periodically to IE executive director. The IE executive director or designees will immediately commence the correction of measures being inadequately implemented.

The IE PM will have the following responsibilities.

- Review the mitigation status reports and any other information presented by the monitor as monitoring occurs, as detailed below in Step 3.
- Oversee amendments to the MMRP, if changes in monitoring activities are deemed necessary, to implement the mitigation measures.
- Ensure that the mitigation measures in the MMRP are undertaken, by staff, contractors, or consultants.
- Ensure that penalties to contractors for noncompliance are incorporated into contracts.
- Verify and document monthly that mitigation actions are properly undertaken. This may include designating other staff or consultants to enforce effective and timely compliance with regard to specific mitigation measures outlined in this MMRP or in required permits.
- Ensure that procedures and assignments to implement the MMRP are in place if the IE staff structure is reorganized prior to completion of the MMRP actions.

Step 3. Reporting

This step will be executed by an IE monitor or designeee.

The monitor will have the following responsibilities.

- Compile all mitigation status forms into a report of compliance on a quarterly basis. Convey the status and any recommendations to the IE PM. Recommendations may include updating the frequency of monitoring, changing the type of monitoring, and suggesting better ways to implement mitigation.
- Assist the IE PM in reviewing the contractor's implementation of mitigation requirements, detailing corrective action and time of completion to resolve issues raised by the monitor and/or IE PM. If the monitor deems mitigation is unsatisfactorily addressed, the monitor will document this in report format. The IE PM will submit the reports to the IE Executive Director.
- Submit all completed reports and statements to the IE PM for submittal to the IE Executive Director.

EAST CONTRA COSTA COUNTY
HABITAT CONSERVATION PLAN ASSOCIATION (HCPA)
EXECUTIVE GOVERNING COMMITTEE

DATE: November 8, 2006

TO: Executive Governing Committee (EGC)

FROM: Member Agency Staff

SUBJECT: Draft Joint Exercise of Powers Agreement (agenda item #7)

RECOMMENDATION

Discuss the Draft Joint Exercise of Powers Agreement to form the East Contra Costa County Habitat Conservancy

DISCUSSION

At its meeting on April 12, 2006, the EGC reviewed several options for structuring implementation of the HCP/NCCP. The EGC directed staff to continue discussions regarding implementation structure and the Implementing Entity and requested that a draft joint exercise of powers agreement be brought back to the committee for discussion at the next meeting.

Since the meeting on April 12, staff have discussed this matter in detail and have prepared the attached draft joint exercise of powers agreement to form the Implementing Entity (the Implementing Entity is proposed to be called the East Contra Costa County Habitat Conservancy). The draft agreement has had preliminary legal review but additional staff and legal review would be required before adoption.

The draft joint exercise of powers agreement would need to be approved by the participating city councils and the County Board of Supervisors. The new agency formed, the East Contra Costa County Habitat Conservancy, would have primary authority and responsibility for implementing the HCP/NCCP and would be charged with carrying out all the duties assigned to the Implementing Entity in the HCP/NCCP and the Implementing Agreement. The HCP/NCCP Implementing Agreement would need to be approved by cities and the County Board of Supervisors as well as by the United States Fish and Wildlife Service, the California Department of Fish and Game, and the East Bay Regional Park District (EBRPD). Provisions describing the role of EBRPD in implementation of the HCP/NCCP are included in the Implementing Agreement. The draft joint exercise of powers agreement provides for a liaison committee between EBRPD and the Implementing and indicates that additional liaison committees may also be formed.

JOINT EXERCISE OF POWERS AGREEMENT

CREATING THE EAST CONTRA COSTA COUNTY

HABITAT CONSERVANCY

DRAFT
October 26, 2006

Draft
October 26, 2006

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY
JOINT EXERCISE OF POWERS AGREEMENT

This Joint Exercise of Powers Agreement ("Agreement"), dated _____ ("Effective Date"), is entered into by and between the **County of Contra Costa,** a political subdivision of the State of California (the "County"), the **City of Pittsburg,** a municipal corporation duly organized and existing under the laws of the State of California ("Pittsburg"), the **City of Clayton,** a municipal corporation duly organized and existing under the laws of the State of California ("Clayton"), the **City of Oakley,** a municipal corporation duly organized and existing under the laws of the State of California ("Oakley"), the **City of Brentwood,** a municipal corporation duly organized and existing under the laws of the State of California ("Brentwood"), and the **Contra Costa County Flood Control and Water Conservation District** ("Flood Control District"), a special district duly organized and existing under the laws of the State of California. Each Party is a public agency as defined in Section 6500 of the Government Code of the State of California. The parties hereto may be referred to collectively herein as the "Parties" and individually as a "Party."

RECITALS

A. Article I (commencing with Section 6500) of Chapter 5 of Division 7 of Title I of the Government Code of the State of California authorizes the Parties to create a joint exercise of powers entity that has the power to exercise jointly the powers common to the Parties.

B. The Parties are each empowered by law to undertake certain projects and programs.

C. The Parties intend to implement the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan ("Conservation Plan"). The Parties expect the Conservation Plan to provide an effective framework to protect natural resources in eastern Contra Costa County, while improving and streamlining the environmental permitting process for impacts on rare and sensitive species and their habitat. The Parties expect that the Conservation Plan will also enable them to achieve certain land use planning goals and, at the same time, to provide comprehensive species, wetlands, and ecosystem conservation and to contribute to the recovery of endangered species in Northern California.

D. The Parties have a common interest in creating an entity capable of implementing the Conservation Plan in accordance with the Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan ("Implementing Agreement"). The Conservation Plan and Implementing Agreement identify certain duties and obligations that must be fulfilled by an "Implementing Entity" in order to support the issuance of permits to the Members under the Federal Endangered Species Act and the California Natural Community Conservation Planning Act that cover urban development and other development projects in eastern Contra Costa County.

NOW, THEREFORE, the Parties, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

1.0 DEFINITIONS

Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings specified herein.

"Agency" means the East Contra Costa County Habitat Conservancy created by this Agreement.

"Board" means the governing board of the Agency.

"Conservation Plan" means the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan, dated _____.

"EBRPD" means the East Bay Regional Park District, a special district duly organized and existing under the laws of the State of California.

"Executive Committee" means the committee established by the Authority to oversee and approve the acquisition of land as described in this Agreement.

"Implementing Agreement" means "Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan," dated _____

"Implementing Entity" means the agency responsible for the implementation, oversight and policy direction of the Conservation Plan pursuant to the Implementing Agreement.

"Law" means the Joint Exercise of Powers Act, Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title I of the Government Code of the State of California (Sections 6500-6599).

"Preserve System" means the Preserve System set forth in the Conservation Plan.

2.0 PURPOSE

This Agreement is made pursuant to the Law for the purposes set forth below:

A. To establish an agency to fulfill the duties and obligations of the "Implementing Entity" in accordance with the Implementing Agreement and the Conservation Plan, including, but not limited to, the management and expenditure of fee revenues collected by the Parties for the purpose of implementing the Conservation Plan.

B. To oversee, monitor, and report on implementation of the Conservation Plan.

C. To create and manage a Preserve System in accordance with the Conservation Plan and to secure funding for those purposes.

D. To provide public information and outreach regarding the Conservation Plan.

E. To exercise all the powers described in Section 5 herein.

3.0 TERM AND TERMINATION

This Agreement shall become effective as of the Effective Date and shall continue in full force until terminated. The Agreement may be terminated only by a majority of the Parties after ninety-day advance written notice thereof to the other Parties, and may be terminated immediately by a written supplemental mutual agreement of all Parties.

4.0 AGENCY

A. Creation of Agency. There is hereby created pursuant to the Law an agency and public entity to be known as the "East Contra Costa County Habitat Conservancy." As provided in the Law, the Agency shall be a public entity separate from its Parties. The debts, liabilities and obligations of the Agency shall not constitute the debts, liabilities or obligations of the Parties.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Agency will cause a notice of this Agreement and any amendment hereof to be prepared and filed with the office of the Secretary of State of the State of California in the manner set forth in Section 6503.5 of the Law.

B. Governing Board. The Board shall administer this Agreement and govern the Agency. The Board shall consist of five members, one elected representative each from Pittsburg, Clayton, Oakley, and Brentwood, and one elected representative from the County Board of Supervisors which shall represent the County and the Flood Control District. Each Party's governing board shall appoint that Party's representative, which shall serve at the governing board's pleasure, except that the County Board of Supervisors shall appoint the representative for the County and the Flood Control District, and that representative shall serve at the pleasure of the County Board of Supervisors. The term of office of any Board member shall terminate when such member is replaced by the governing board that appointed the member or when such member ceases to be an elected official of the governing board of the public entity represented by the member. Each Party's governing board shall appoint a new representative to the Board whenever the Party's seat on the Board has for any reason become vacant, except that the County Board of Supervisors shall appoint a new representative for the County and the Flood Control District if their seat becomes vacant.

Each member of the Board shall have one vote. The Board shall make decisions relating to the governance and administration of the Agency, unless delegated by the Board to Agency staff. Duties of the Board include, but are not limited to, annual approval of the Agency budget.

Members of the Board shall not receive any compensation for serving as such, but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a member if the Board shall determine that such expense shall be reimbursed and there are unencumbered funds available for such purpose.

The County will provide staff to support the activities of the Agency until such time as the Board elects to secure other staff support. The Agency shall reimburse the County for the actual direct and indirect costs of providing staff support according to an annual budget approved by the Board. Each such annual budget shall include a spending cap beyond which the Agency shall not be required to reimburse the County.

C. Meetings of Board.

(1) Regular Meetings. The Board shall hold a regular meeting at least twice each year at dates and times the Board determines, and, by resolution, may provide for the holding of regular meetings at more frequent intervals. If the Chair determines that there will be no business to transact at any meeting or that a scheduling conflict exists, such meeting may be canceled or rescheduled. The hour and place at which each such regular meeting shall be held shall be fixed by resolution of the Board.

(2) Legal Notice. All meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part I of Division 2 of Title 5 of the Government Code of the State of California (Sections 54950-54961)) or any successor legislation hereinafter enacted.

(3) Minutes. The Secretary of the Agency shall cause minutes of all meetings of the Board to be kept and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to each Party.

(4) Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings from time to time.

D. Officers: Duties; Bonding.

(1) The Board shall select from its members a Chair who shall serve as Chair of the Agency and a Vice Chair who shall serve as Vice Chair of the Agency. The Chair and the Vice Chair shall have the duties assigned by the Board or set forth in the Agency By-Laws adopted by the Board.

(2) The Secretary of the Agency shall be the County Community Development Director. The Secretary or his or her designee shall keep the records of the Agency, shall act as Secretary at the meetings of the Agency and record all votes, and shall keep a record of the proceedings of the Agency in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to the office.

(3) The County Treasurer is hereby designated as Treasurer of the Agency. Subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent, the Treasurer is designated as the depository of the Agency to have custody of all the money of the Agency, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Law.

(4) The Auditor Controller, who performs the functions of auditor and controller for the County, is hereby designated as Controller of the Agency, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Law. The Controller shall draw checks to pay demands against the Agency when the Board has approved the demands.

(5) The Agency shall reimburse the County for the actual direct and indirect costs of the services of the Secretary, Treasurer, and Controller according to an annual budget approved by the Board. Each such annual budget shall include a spending cap beyond which the Agency shall not be required to reimburse the County.

(6) The Treasurer and Controller of the Agency are designated as the public officers or persons who have charge of, handle, or have access to any property of the Agency, and each such officer shall file an official bond in the amount each such officer determines is necessary as required by Section 6505.1 of the Law, provided, that such bond shall not be required if the Agency does not possess or own property or funds with an aggregate value of greater than $1,500.00.

(7) The Treasurer and Controller of the Agency are hereby authorized and directed to prepare or cause to be prepared: (a) a special audit as required pursuant to Section 6505 of the Law every year during the term of this Agreement; and (b) a report in writing on the first day of February, May, August and November of each year to the Board and the Parties, which report shall describe the amount of money held by the Treasurer and Controller of the Agency, the amount of receipts since the last such report, and the amount paid out since the last such report.

(8) The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

5.0 COMMITTEES

A. Habitat and Regional Parks Partnership Liaison Committee. The Agency shall establish a Habitat and Regional Parks Partnership Liaison Committee consisting of up to three (3) Agency representatives and up to three (3) representatives of the EBRPD to promote coordination with EBRPD. The Board shall appoint Agency representatives to the Liaison Committee; EBRPD may appoint its representatives. Liaison Committee representatives may be elected officials or may be staff of the Agency or EBRPD.

The Habitat and Regional Parks Partnership Liaison Committee shall make recommendations to the Board regarding ways to coordinate implementation of the Conservation Plan with EBRPD's activities in the Conservation Plan area and regarding the preparation and submittal of grant applications in conjunction with EBRPD.

B. Public Advisory Committee. The Agency shall establish a Public Advisory Committee to advise the Agency regarding various aspects of Conservation Plan implementation, including, but not limited to (1) expenditure of funds for Conservation Plan implementation, (2) general permitting procedures for projects covered by the Conservation Plan, (3) management of the Preserve System, and (4) adherence to Conservation Plan requirements. The Public Advisory Committee shall make recommendations to the Board regarding creation and management of the Preserve System and make other recommendations consistent with the Conservation Plan. Members of the Public Advisory Committee shall be appointed by the Board in accordance with guidelines to be established by the Board and consistent with the Conservation Plan.

C. Legal Notice. All meetings of committees shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part I of Division 2 of Title 5 of the Government Code of the State of California (Sections 54950-54961)) or any successor legislation hereinafter enacted.

D. Other Advisory Committees. The Board may establish other advisory committees as contemplated in the Conservation Plan or as the Board otherwise deems appropriate to advise the Agency on matters related to this Agreement, the Conservation Plan or the Implementing Agreement, provided that the Board shall specify the purpose and function of any such committees.

6.0 POWERS

The Agency shall have all of the powers granted to joint powers authorities in Articles 2 and 4 of the Law. Additionally, the Agency is authorized, in its own name, to do all acts necessary for the exercise of said powers for said purposes, including but not limited to any or all of the following: to make and enter into contracts; to employ agents and employees; to receive, collect, and disburse funds; to receive grants, contributions and donations of property, funds, and services; to sue and be sued in its own name; to acquire real property and improvements thereon by any lawful means other than eminent domain; to sell and to lease real and personal property; and to buy and hire real and personal property.

Except as otherwise provided herein, such power shall be exercised subject only to such restrictions upon the manner of exercising such power as are imposed upon the County in the exercise of similar powers, as provided in Section 6509 of the Law.

Notwithstanding the foregoing, the Agency shall have any additional powers conferred under the Law, insofar as such additional powers may be necessary to accomplish the purposes set forth in Section 2 hereof.

7.0 TERMINATION OF POWERS

The Agency shall continue to exercise the powers herein conferred upon it until the termination of this Agreement.

8.0 DISBURSEMENTS AND DEPOSITS OF FEES

The Implementing Agreement requires Pittsburg, Clayton, Oakley, Brentwood (collectively the "Cities") and the County to consider the adoption of various developer fees, including a "Development Fee" and a "Wetlands Fee" (collectively "Fees") to raise funding for the purposes outlined in the Implementing Agreement.

To the extent the County and the Cities impose such Fees and collect any revenue from such Fees, County and Cities shall disburse to Agency any and all such revenues semi-annually, on or about December 31 and June 30. Agency shall hold revenues from Development Fees in one separate, interest-bearing account, and Agency shall hold revenues from the Wetlands Fee in a second separate, interest-bearing account, pursuant to the requirements of the Mitigation Fee Act (Gov. Code, § 66000 et seq.)("the Act") until disbursement or expenditure in accordance with this Agreement.

9.0 USE OF FEE REVENUES

Agency shall use any and all revenues from the Fees only for the purposes for which they were imposed, and for no other purpose, pursuant to the requirements of the Act.

10.0 ACCOUNTABILITY

Agency is strictly accountable for all revenue from the Fees that is disbursed to Agency and must report all receipts and disbursements. No later than October 31 of each year of this Agreement, the Agency, County and Cities shall prepare and furnish to each other an annual report of their respective collection, disbursement and expenditures of, and any interest earned on, revenue from the Fees. Agency shall, on behalf of the Parties, be solely responsible for full compliance with all applicable requirements of the Act as they pertain to revenue from the Fees, including but limited to requirements with respect to its expenditure, management and accounting.

11.0 FISCAL YEAR

Unless and until changed by resolution of the Board, the fiscal year of the Agency shall be the period from July 1 of each year to and including the following June 30, except for the first fiscal year which shall be the period from the date of this Agreement to the following June 30.

12.0 SURPLUS MONEY

After the completion of the purpose of this Agreement, any surplus money on hand shall be returned to the Parties in proportion to the contributions made.

13.0 DISPOSITION OF ASSETS AND REAL PROPERTY

Upon the termination of this Agreement as set forth in Section 6, and after the repayment of advances and contributions in accordance with Section 14, any assets acquired as the result of the joint exercise of powers under this Agreement, other than real property and funding for the restoration or management of real property, shall be distributed to the Parties in proportion to each Member's overall unreimbursed contribution of assets to the Agency; real property and funding for the restoration or management of real property acquired as the result of the joint exercise of powers under this Agreement shall be distributed to the Parties in proportion to the revenues each Party provided to the Agency for the purpose of acquiring, managing or restoring real property.

14.0 CONTRIBUTIONS AND ADVANCES

With the Board's approval, any Party may contribute or advance public funds, personnel, equipment or property to the Agency for any of the purposes of this Agreement. Any such advance shall be made subject to repayment, and shall be repaid in the manner agreed upon by the Agency and the Party making the advance at the time of making such advance. Except as otherwise expressly provided in this Agreement, no Party has any obligation to make advances or contributions to the Agency to provide for the costs and expenses of administration of the Agency, even though any Party may choose to do so.

15.0 ACCOUNTS AND REPORTS

The Agency shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Agency shall be open to inspection at all reasonable times by the Parties and their representatives. The Agency shall give an audited written report of all financial activities for each fiscal year to the Parties within six (6) months after the close of each fiscal year.

To the extent required by Section 6505.6 of the Law, the Controller of the Agency shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Agency in compliance with Section 6505.6 of the Law. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of an account and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with the Parties and, if required by Section 6505.6 of the Law, with the County Auditor/Controller of the County of Contra Costa. Such report shall be filed within twelve (12) months of the end of the fiscal year or years under examination.

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants, in making an audit pursuant to this Section shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for the purpose.

In any year the Agency may, by unanimous request of the Board, replace the annual special audit with an audit covering a two-year period.

16.0 CONFLICT OF INTEREST CODE

The Agency shall adopt a conflict of interest code as required by law.

17.0 LIABILITY AND INDEMNIFICATION

Each Party shall defend, hold harmless and indemnify the other Parties, their officers, agents, and employees against any and all claims, demands, damages, costs, expenses or liability arising out of, or in connection with, any acts performed under this Agreement to the extent liability arises from the acts of the indemnitor, its officers, agents, or employees in the performance of this Agreement.

18.0 BREACH

If a Party shall default in any covenant contained in this Agreement, such default shall not excuse any of the Parties from fulfilling its respective obligations under this Agreement and the Parties shall continue to be liable for the performance of all conditions herein contained. Each Party shall be entitled to seek any and all legal and equitable remedies against any other Party in response to any alleged default under this Agreement. Each and all of the remedies given to the Parties hereunder or by any law now or hereafter enacted are cumulative and the exercise of one right or remedy shall not impair the right of the Parties to any or all other remedies.

19.0 SEVERABILITY

Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

20.0 SUCCESSORS; ASSIGNMENT

This Agreement shall be binding upon and shall inure to the benefit of the successors of the Parties. No Party may assign any right or obligation hereunder without the consent of the other Parties.

21.0 AMENDMENT OF AGREEMENT

This Agreement may be amended by supplemental agreement executed by the Parties at any time.

22.0 FORM OF APPROVALS

Whenever an approval is required in this Agreement, unless the context specifies otherwise, it shall be given, in the case of the County, by resolution duly and regularly adopted by the members of the Board of Supervisors; in the case of the Flood Control District, by resolution duly and regularly adopted by the Board of Directors of the Flood Control District; in the case of the City of Pittsburg, the City of Brentwood, the City of Oakley, and the City of Clayton, by resolution duly and regularly adopted by the members of the city's city council; and, in the case of the Agency, by resolution duly and regularly adopted by the Board. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

23.0 NOTICES

Notices to the Parties shall be sufficient if delivered as follows:

Mr. John Cullen, County Administrator
Contra Costa County
651 Pine Street, 11th Floor
Martinez. CA 94553

Ms. Donna Landeros, City Manager
City of Brentwood
708 Third Street
Brentwood, CA 94513

Mr. Gary Napper, City Manager
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Mr. Bryan Montgomery, City Manager
City of Oakley
3231 Main Street
Oakley, CA 94561

Mr. Marc Grisham, City Manager
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

Mr. Maurice M. Shiu, Chief Engineer
Contra Costa County Flood Control and Water Conservation District
255 Glacier Drive
Martinez, CA 94553

With a copy to:

Mr. Silvano Marchesi, County Counsel
Contra Costa County
651 Pine Street, 9th Floor
Martinez, CA 94553

Mr. Damien Brower, City Attorney
City of Brentwood
708 Third Street
Brentwood, CA 94513

Mr. Dan Adams, City Attorney
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Mr. Sky Woodruff, City Attorney
City of Oakley
3231 Main Street
Oakley, CA 94561

Ms. Ruthann Ziegler, City Attorney
City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565

24.0 SECTION HEADINGS

All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

SIGNATURES:

Dated: _____, 20__ COUNTY OF CONTRA COSTA

By: _____
John Cullen, County Administrator

Dated: _____, 20__ CITY OF BRENTWOOD

By: _____
Donna Landeros, City Manager

Dated: _____, 20__

CITY OF CLAYTON

By: _____
Gary Napper. City Manager

Dated: _____, 20__

CITY OF OAKLEY

By: _____
Bryan Montgomery, City Manager

Dated: _____, 20__

CITY OF PITTSBURG

By: _____
Marc Grisham, City Manager

Dated: _____, 20__

CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By: _____
Maurice M. Shiu, Chief Engineer