

## STAFF REPORT

**Date:** May 12, 2015  
**To:** Bryan H. Montgomery, City Manager  
**From:** Paul Abelson, Finance Director  
**SUBJECT:** Adopt Resolution Authorizing the City Manager to Execute a Cooperation Agreement with ACD-TI Oakley, LLC, as Co-Applicant for a Fill Permit in the East Cypress Corridor Specific Plan Area

Approved and Forwarded to the City Council:



Bryan Montgomery, City Manager

### Background and Analysis

The City adopted the East Cypress Corridor Specific Plan in 2009, laying the foundation for the future development of approximately 2,546 acres at the edge of the City's easterly boundary. During the recession, the developers previously controlling more than half of the primary properties in the Specific Plan Area deferred their properties' development, and/or fell out of contract. A new Developer, ACD-TI Oakley, LLC, now controls approximately half of the Specific Plan Area acreage, and wishes to re-start the fill permit application review process with the Army Corps of Engineers and Environmental Protection Agency (EPA).

The City has a substantial interest in seeing the permit granted, so that infrastructure improvements can begin in preparation for the properties' future development; and Staff is recommending that the City, through the attached Cooperation Agreement, be a Co-Applicant for the Permit. The expected result will be that the Army Corps and EPA will limit their review to the impacts on the subject and nearby properties; because our participation makes it clear that the infrastructure is needed by the City whether these particular Developers improve the property, or someone else does. The most substantial benefit of the City's participation includes the potential of saving of months of review time, enabling more timely construction of the improvements.

### Fiscal Impact

None. The Agreement provides that the Developer will reimburse the City for any costs incurred in its role as Co-Applicant, and as with all infrastructure projects, they will protect and indemnify the City from any obligation related to the installation and/or maintenance of the infrastructure until such time it is dedicated and accepted by the City.

### Recommendation

Staff recommends the City Council adopt the resolution authorizing the City Manager to execute the attached Cooperation Agreement.

### Attachments

1. Resolution
2. Cooperation Agreement

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING THE CITY MANAGER TO EXECUTE A COOPERATION AGREEMENT WITH ACD-TI, OAKLEY, LLC, AS CO-APPLICANT FOR A FILL PERMIT IN THE EAST CYPRESS CORRIDOR SPECIFIC PLAN AREA**

**WHEREAS**, the City adopted the East Cypress Corridor Specific Plan in 2009, laying the foundation for the future development of 2,546 acres at the edge of the City's easterly boundary in what is known as the East Cypress Specific Plan Area; and

**WHEREAS**, the development anticipates the construction of significant infrastructure improvements of importance to the City, including but not limited to levee, water, drainage and street improvements contemplated by the Specific Plan; and

**WHEREAS**, ACD-TI Oakley, LLC, a developer who currently controls nearly half of the Specific Plan Area acreage, is interested in moving forward with a previous pending fill permit application to authorize fill and dredge activities necessary to develop the Property in accordance with the Specific Plan; and

**WHEREAS**, the joining of the City as a Co-Applicant on the fill permit will assist in defining the project for the purposes of and further facilitating the application's review by the Army Corps of Engineers and Environmental Protection Agency.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Oakley authorizes the City Manager to execute the attached Cooperation Agreement with ACD-TI, Oakley, LLC.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Oakley held on the 12th day of May 2015 and adopted by the following vote:

AYES:  
NOES:  
ABSTENTION:  
ABSENT:

APPROVED: \_\_\_\_\_  
Doug Hardcastle, MAYOR

ATTEST:

\_\_\_\_\_  
Libby Vreonis, CITY CLERK

**CITY OF OAKLEY AND ACD-TI OAKLEY COOPERATION AGREEMENT**

THIS AGREEMENT, dated \_\_\_\_\_, between THE CITY OF OAKLEY, a municipal corporation ("City"), and ACD-TI OAKLEY, LLC, a Delaware limited liability company ("Developer"), is made with reference to the following facts:

A. Developer owns or has an equitable interest in the real property commonly known as Planning Areas One, Three and Four of the East Cypress Corridor Specific Plan ("Specific Plan"). The property consists of approximately 1,238.30 acres, as generally depicted on Exhibit A attached hereto and as legally described on Exhibit B attached hereto (the "Property").

B. Developer desires to develop the Property in accordance with the Specific Plan (the "Project"), and City desires installation of certain infrastructure improvements to serve the Project and other nearby properties, including but not limited to levee, water, drainage and street improvements, as contemplated by the Specific Plan (the "Improvements"). Implementation of the Improvements will facilitate Project development and provide City with much needed ability to manage flood control, water quality, wastewater treatment, and traffic flow in and around the Specific Plan planning area.

C. Development of the Project and the Improvements may involve limited discharge of dredged or fill material into waters under federal jurisdiction. If so, such activities will require authorization from the United States Army Corps of Engineers (the "Corps") under a fill permit issued pursuant to Section 404 of the federal Clean Water Act (a "Fill Permit").

D. In 2004, Developer's predecessors in interest filed with the Corps a Fill Permit application that would authorize dredge and fill activities associated with development of the Property in accordance with the Specific Plan (the "Fill Permit Application"), which application is currently pending.

E. Developer proposes to file with the Corps an application to amend the Fill Permit Application to update it with current information concerning the Developer, the Project and its alternatives (the "Amendment").

F. Developer acknowledges that City has a responsibility to protect the public interest and promote the general welfare by ensuring that comprehensive and rational land use planning occurs within the Specific Plan area, and that City desires to minimize or avoid any adverse environmental effects of developing the Project and Improvements. To effectively implement the City's land use planning goals and policies for the Specific Plan area, City and Developer recognize that it is efficient for the parties to jointly file the Amendment as Fill Permit co-applicants in order to timely facilitate Fill Permit issuance.

**NOW, THEREFORE, the parties agree as follows:**

1. **Purpose.** The parties acknowledge and agree that the purpose of this Agreement is to set forth the cooperative relationship between the City and Developer, the respective duties and obligations thereof, and the procedures to be followed by the parties hereto in order to undertake and carry out the parties' mutual desire to obtain and secure, as co-applicants, a Fill Permit from the Corps that authorizes regulated dredge and fill activities associated with development of the Project and the Improvements on the Property.

2. **Scope of Cooperation By and Among the Parties.**

- a. The parties agree to timely and diligently cooperate and assist each other in achieving the purpose set forth in Section 1 of this Agreement, and to refrain from taking actions that would directly or indirectly frustrate, undermine, unreasonably delay, or conflict with such purpose.
- b. City and Developer understand and acknowledge that this Agreement is not intended to set forth all the material terms and conditions regarding Developer's proposed development of the Property, the Project or the Improvements. This Agreement is not intended to contractually bind the City or Developer to any particular course of action with respect to the development of the Property, the Project, or the Improvements. No legal obligation shall arise for City or Developer as a result of this Agreement, except the obligation to timely and diligently cooperate and assist each other in achieving the purpose set forth in Section 1 of this Agreement, and to refrain from taking actions that would directly or indirectly frustrate, undermine, unreasonably delay, or conflict with such purpose.
- c. City retains absolute direction in connection with City's requirement to consider any particular development proposal and related environmental analysis related to development of the Property, the Project, or the Improvements, and to determine to approve, deny, or condition any discretionary City permit or other approval of the City in connection with development of the Property, the Project, or the Improvements. Without limiting the foregoing, City and Developer expressly acknowledge and agree that, by entering into this Agreement, City shall retain, and does not waive or in any way diminish, its rights and responsibilities to exercise its reasonable discretion to promote and protect the public health, safety and welfare in evaluating and considering any development proposal related to the Property, the Project, and the Improvements, including any required environmental impact analysis thereof.

3. **Amendment Preparation and Submittal.** The parties acknowledge and agree that Developer shall prepare and submit to the Corps on the parties' behalf all reasonably required Amendment materials in accordance with applicable Corps regulations and requirements.

Developer shall provide the Fill Permit Application to the City for its records. Developer shall also provide a draft of the Amendment to the City, and City shall have ten (10) working days to review and comment on the Amendment prior to its submittal to the Corps. All reasonable draft Amendment revisions proposed by City shall be incorporated into the final Amendment and, once finalized, shall be signed by both parties as co-applicants for submittal to the Corps by Developer on the parties' behalf. Notwithstanding the forgoing sentence, to the extent the parties are unable to agree on the content of the final Amendment to be submitted to the Corps, or if City fails to provide Developer timely comments on the draft Amendment, either party may withdraw from this Agreement by providing the other party written notice of such withdraw, at which point this Agreement shall be terminated and of no further force or effect.

**4. Payment of Processing Fees and Costs.** Developer agrees to reimburse the City for reasonable and ordinary staff and legal costs incurred by the City to review, negotiate, and draft this Agreement. Developer further agrees to reimburse City for its reasonable and ordinary costs associated with its review of, and comment on, the Amendment and for other services provided by City staff in connection with the filing and processing of the Amendment. Developer further agrees to reimburse the City for the reasonable and ordinary costs incurred by City associated with City staff travel to and/or participation in any pre-application conferences or meetings with Corps staff related to the Amendment, or those reasonable and ordinary costs incurred by City associated with City staff travel to and/or participation in any public hearings conducted by the Corps with respect to the Amendment.

**5. Reports to Developer.** The City shall provide the Developer with copies of all monthly invoices for City staff costs reimbursable under this Agreement. Developer shall pay to the City the amounts set forth in the invoices within thirty (30) days of receipt of such invoices. In the event Developer fails to pay any submitted invoice within the time set forth above, the City shall be entitled to suspend all further City staff work related to the filing and processing of the Amendment. In addition the City shall be entitled to any and all other remedies to collect from the Developer the funds owed on the unpaid invoices.

**6. Further Assurances and Corrective Instruments.** The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such amendments hereto and such further instruments as may be reasonably required to carry out the purpose of this Agreement.

**7. Solicitation of Other Agency Support.** The parties agree Developer may solicit support for the Fill Permit Application and/or Amendment from other local government agencies, and Developer agrees to reasonably coordinate such outreach efforts with the City on an ongoing basis.

**8. Termination of Agreement.** In addition to the Agreement termination mechanism described in Section 3 of this Agreement, this Agreement shall terminate upon issuance of the Fill Permit that is the subject of the Fill Permit Application and Amendment or as subsequently agreed to by the parties in writing.

9. **Notices.** Any notices required or permitted to be given hereunder shall be in writing and shall be either personally delivered or sent by certified mail, return receipt requested, to the other party at the following addresses:

To City: City of Oakley  
Attn: City Manager  
[ADDRESS]

To Developer: Perry Hariri  
ACD-TI Oakley, LLC  
[ADDRESS]

Telephone: [NUMBER]  
Facsimile: [NUMBER]

10. **Indemnification.** Developer agrees to indemnify, hold harmless, and defend the City, its elected and appointed officials, officers, agents, and employees for any claim, count, or cause of action asserted by any governmental agency or third-party in any legal, judicial, administrative, or enforcement action or proceeding that either (i) concerns the application for, issuance of, or compliance with the Fill Permit, or (ii) concerns the Fill Permit and arises under any statute or regulation that governs, or requires that Developer obtain and maintain, compliance with such permit. Notwithstanding the foregoing sentence, nothing in this Agreement shall be construed to mean that Developer shall indemnify, hold harmless, or defend the City, its elected or appointed representatives, officers, agents, or employees for any claim, count, or cause of action arising from, or alleged to arise from the maintenance or repair by City of any Improvement that has been offered for dedication and accepted by City for maintenance.

11. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with regard to the payment of costs associated with processing of the 404 Permit Application and supersedes and cancels any prior agreements or understandings, whether written or oral. This Agreement can only be modified by a written amendment hereto executed by both parties.

12. **Authorization.** The person signing this Agreement for Developer hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Developer.

13. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

14. **Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

15. **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which counterparts shall be original and all of which counterparts shall constitute but one and the same instrument.

16. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. **Effective Date.** This Agreement shall be in full force and effect on the date when it is executed by all parties.

**IN WITNESS WHEREOF,** the parties have executed this Agreement the day and year first above written.

THE CITY OF OAKLEY:

DEVELOPER:

By: \_\_\_\_\_  
Bryan Montgomery, City Manager

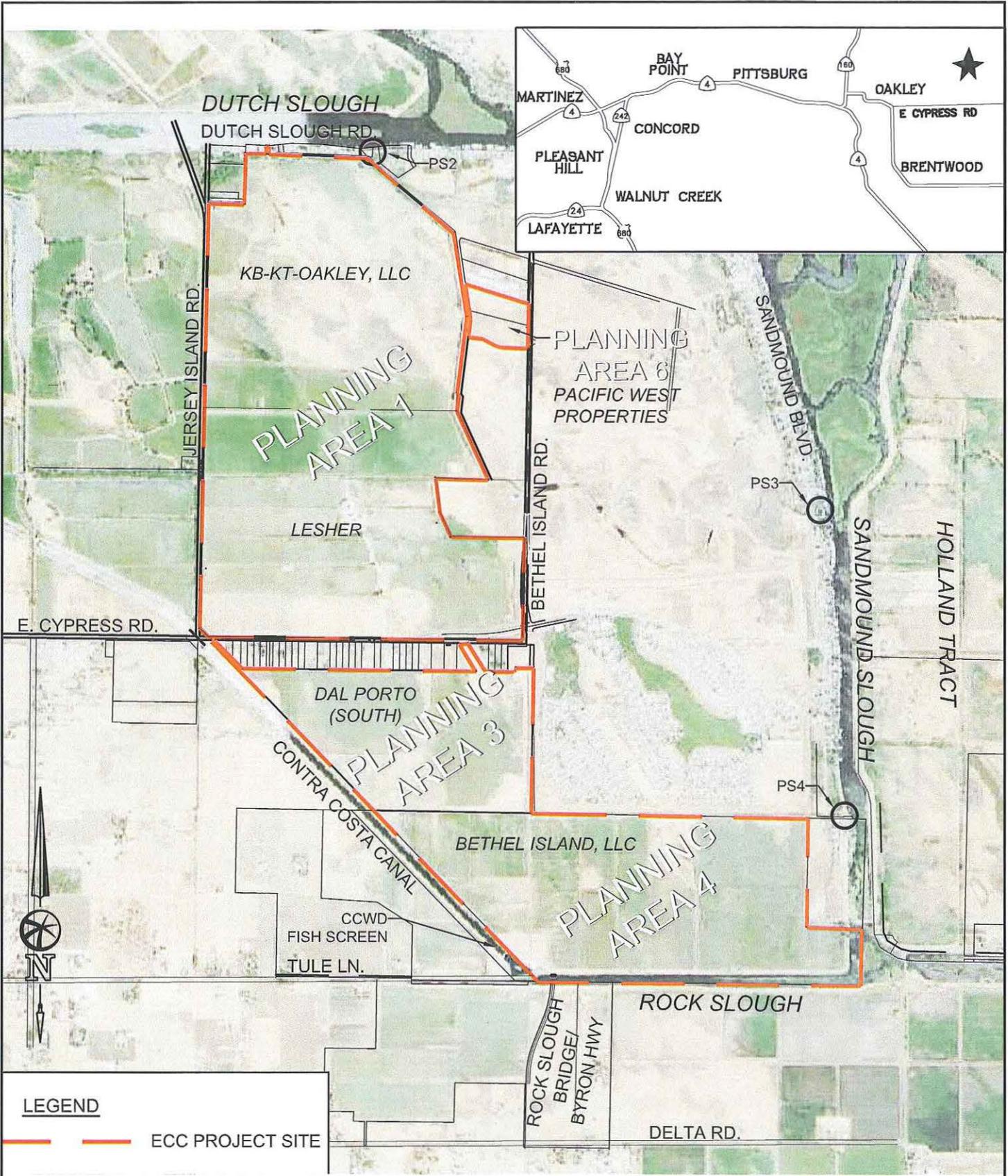
ACD-TI Oakley, LLC  
a Delaware limited liability company  
By: Alta Oakley, LLC  
a California limited liability company  
Its Manager  
By: Perry Hariri  
Its: Chief Operating Officer

Attest: \_\_\_\_\_  
Libby Vreonis, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Derek P. Cole, City Attorney

\_\_\_\_\_  
Perry Hariri  
Chief Operating Officer



**LEGEND**

— ECC PROJECT SITE



**Bellecci & Associates, inc.**

Civil Engineering • Land Surveying

2290 Diamond Boulevard, Suite 100 Concord, CA 94520  
Phone (925) 885-4569 Fax (925) 885-4898

DATE: MAY 2015

SCALE: 1" = 2000'

PROJECT NO.: 13075

FIGURE: 1

**EXHIBIT A: PROJECT SITE LOCATION**

EAST CYPRESS CORRIDOR DEVELOPMENT PROJECT  
ACD-TI, LLC - OAKLEY, CONTRA COSTA COUNTY, CA

**EXHIBIT B:  
LEGAL DESCRIPTION OF THE PROPERTY**

The East Cypress Corridor Specific Plan (ECCSP) property (Property), with Real Property in the City of Oakley, County of Contra Costa, State of California, described as follows:

**PLANNING AREA 1:**

**Owner: KB-KT OAKLEY, LLC**

*PARCEL ONE:*

Portion of the South ½ of Section 21, Township 2 North, Range 3 East, Mount Diablo Base and Meridian, described as follows:

Commencing at the southwest corner of said Section 21; thence from said point of commencement North 89° 33' 33" East, 30 feet to the east line of a county road; thence North 0° 32' West along said east line, 982.77 feet to the actual point of beginning of the herein described parcel of land; thence from said point of beginning North 0° 32' West, continuing along said east line, 814.53 feet to the south line of the parcel of land described in the deed to Anthony J. Dal Porto, et ux, recorded April 3, 1941, Book 576 Official Records, Page 350; thence along said south line South 1° 33' East, 6 feet to the center of the drainage ditch; thence South 85° 41' 30" East, 1668.6 feet along said center line to a point on the southwest line of said Dal Porto parcel; thence South 40° 34' East along said southwest line, 277.8 feet to an iron pipe at the southeast corner of said Dal Porto Parcel; thence South 40° 34' East, 49.5 feet to the center line of a drainage canal; thence south 5° 40' West along said center line, 254.43 feet; thence South 89° 18' West, 3975.97 feet to the point of the beginning.

*PARCEL TWO:*

Portion of Section 21, Township 2 North, Range 3 East, Mount Diablo Base and Meridian, described as follows:

Beginning at a point on the southerly bank of Dutch Slough which bears South 83° 26' West, 288.9 feet from the most westerly corner of the tract of land described in the deed to Bolusiano Perez, et ux, recorded October 10, 1940, Book 559, Page 259 of Official Records; thence from said point of beginning South 44° East, 436.5 feet to a point on the westerly bank of a drainage canal; thence along said bank South 51° 43' East, 1547.2 feet; South 10° 3' East, 1340 feet and South 5° 48' West, 1197.8 feet to a black pipe; thence North 40° 34' West, 959 feet to a black pipe; thence North 85° 43' West, 1237.4 feet to a black pipe; thence South 1° 33' East, 478.7 feet to a black pipe; thence North 85° 30' West, 1616.9 feet to a black pipe; thence North 89° 21' West, 539.13 feet to a black pipe on the east line of the County road; thence along the east line of the county road North 0° 25' West, 1211.1 feet; North 0° 10' West, 622.6 feet and North 0° 15' East, 561.1 feet to the southwest corner of the tract of land described in the deed to Herbert S. Miller, et. al., recorded December 31, 1931, Book 295, Page 101 of Official Records; thence along the south line of said tract South 89° 45' East, 569 feet to the southeast corner thereof; thence North 0° 15' East along the east line of said tract and the extension northerly thereof,

933.1 feet to the southerly bank of Dutch Slough; thence along said southerly bank South 88° 5' East, 356.7 feet; North 82° 26' East, 354.6 feet; South 89° 23' East, 497.2 feet and South 85° 32' East, 597.1 feet to the point of beginning.

*EXCEPTING FROM PARCEL TWO:*

- 1) The parcel of land described in the deed to Claude L. Sump, recorded April 15, 1944, Book 773, Page 285 of Official Records, - not excepting however, the right of way reserved in said deed (773 OR 285).
- 2) The parcel of land described in the deed to Hylas B. Baldwin, et ux, recorded April 26, 1944, Book 774, Page 363 of Official Records, not excepting however, the right of way reserved in said deed (774 OR 363).
- 3) The parcel of land described in the deed to J.B. Baldwin, et ux, recorded May 8, 1944, Book 606, Page 211 of Official Records, not excepting however, the right of way reserved in said deed (606 OR 211).
- 4) The tract of land designated on the Map of Dutch Slough Subdivision filed April 12, 1944, Map Book 27, Page 21, Contra Costa County Records.

*PARCEL THREE:*

Portion of the northeast 1/4 of the southwest 1/4 and portion of the northwest 1/4 of the southeast ¼ of Section 21, Township 2 North, Range 3 East, Mount Diablo Base and Meridian, described as follows: Commencing at the southeast corner of the parcel of land described in the deed to Anthony J. Dal Porto, et ux, recorded April 3, 1941, Book 576, Page 350 of Official Records; thence from said point of commencement North 40° 34' West along the south line of said Dal Porto parcel, Book 576, Page 350 of Official Records, 277.8 feet to the actual point of beginning of the herein described parcel of land; thence from said point of beginning and continuing along said south line North 40° 34' West, 581.2 feet; North 85° 43' West, 1237.4 feet and South 10° 33' East, 478.7 feet; thence leaving said south line and continuing South 10° 33' East, 6 feet to the center line of a drainage ditch; thence South 85° 41' 30" East, along said center line, 1668.6 feet to the point of beginning.

APN: 032-082-001

**Owner: LESHAR TRUST**

*PARCEL ONE:*

A portion of the South 1/2 of Section 21, and a portion of the North 1/2 of Section 28, Township 2 North, Range 3 East, Mount Diablo Base and Meridian, as described in the Gift Deed from Laura Mae Dutra to her daughter, Hetty Louise Wilkie, filed August 27, 1976, in Book 7995 of Official Records, Page 158, Contra Costa County Records, being more particularly described as follows:

Commencing at the Southwest corner of Section 21; Township 2 North, Range 3 East, Mount Diablo Base and Meridian; thence leaving said point of commencement North 89° 54' 46" East 30.00 feet (North 89° 33' 30" East 30.00 feet) to the true point of beginning, said point of beginning being a point on the Eastern line of Jersey Island Road, a 60 foot wide county road; thence leaving said point of beginning Northerly along said Eastern line, said Eastern line being common with the Western line of that parcel of

land described in the deed from Frank R. Shellenberger and Idalyne J. Shellenberger to Frank J. Dutra and Laura Mae Dutra, recorded September 24, 1958, in Book 3233 of Official Records, Page 587, Contra Costa County Records, North 0° 06' 24" East 980.10 feet (North 0° 32' West 982.77 feet) to the Southwestern corner of that parcel of land described in the deed from Frank R. Shellenberger and Idalyne J. Shellenberger to Anthony J. Dal Porto and Edith M. Dal Porto, recorded April 3, 1952, in Book 1914 of Official Records, Page 212, Contra Costa County Records; thence leaving said common corner, Easterly along the Southern line of said Dal Porto Parcel (1914 OR 212) North 89° 18' 47" East 3975.97 feet (North 89° 18' East 3975.97 feet) to the Southeastern corner of said Dal Porto Parcel (1914 OR 212); thence leaving said Southern line and said Southeastern corner Southerly along the Eastern line of the aforesaid Dutra parcel (3233 OR 587) the following courses and distances: South 5° 45' 47" West 1.97 feet (South 5° 40' West 1.97 feet); thence South 26° 09' 02" East 1181.27 feet (South 25° 58' 30" East 1182.4) to a point on the Northerly line of that parcel of land described in the deed from the Bank of America National Trust and Savings Association to Angelo Gill, et ux., recorded February 24, 1942, in Book 725 of Official Records, Page 82, Contra Costa County Records; thence leaving said Eastern line Westerly along the Northern lines of said Gill Parcel (725 OR 82) the following courses and distances: North 87° 19' 56" West 50.90 feet (North 87° 21' West 50.9 feet); thence North 89° 48' 56" West 775.27 feet (North 89° 50' West 775.27 feet) to the Northwestern corner of said Gill Parcel (725 OR 82), said Northwestern corner being common with the Northeastern corner of that parcel of land described in the Deed to Frank J. Dutra and Laura Mae Dutra, his wife, recorded in Book 3338 of Official Records, Page 62, Contra Costa County Records; thence leaving said common corner Westerly along the Northern line of said Dutra Parcel (3338 OR 62), said Northern line being common with the Southern line of said Dutra Parcel (3233 OR 587) South 89° 18' 47" West 3671.25 feet (South 89° 18' West 3657.9 feet) to the Northwestern corner of the aforesaid Dutra Parcel (3338 OR 62), said Northwestern corner being common with the Southeastern corner of the aforesaid Dutra Parcel (3233 OR 587); thence leaving said common corner Northerly along the aforesaid Eastern line of Jersey Island Road, a 60 foot wide County Road, North 0° 38' 45" West 73.70 feet (North 0° 21' West 73.7 feet) to the point of beginning.

APN 032-082-005

*PARCEL TWO:*

All that real property situated in the County of Contra Costa, State of California, described as follows:

A portion of the North 1/2 of Section 28, Township 2 North, Range 3 East, Mount Diablo Base and Meridian, as described in the Gift Deed from Laura Mae Dutra to her daughter Hetty Louise Wilkie, filed August 27, 1976, in Book 7995 of Official Records, Page 158, Contra Costa County Records, being more particularly described as follows:

Commencing at the corner common to Sections 20, 21, 28 and 29, of Township 2 North, Range 3 East, Mount Diablo Base and Meridian; thence leaving said point of commencement North 89° 54' 46" East, 30.00 feet (North 89° 33' 30" East 30.00 feet) to a point on the Eastern line of Jersey Island Road, a 60 foot wide county road; thence Southerly along said Eastern line, said Eastern line being common with the Western line of that parcel of land described in the deed from Frank R. Shellenberger and Idalyne J. Shellenberger to Frank J. Dutra and Laura Mae Dutra, recorded September 24, 1958, in Book 3233 of Official Records, Page 587, Contra Costa County Records, South 0° 38' 45" East 73.7 feet (South 0° 21' East 73.7 feet) to the true point of beginning; said point of beginning being common with the Southwestern corner of said Dutra Parcel (3233 OR 587) and said Southwestern corner being common with the Northwestern corner of parcel of land described in the deed to Frank J. Dutra and Laura Mae Dutra, his wife, recorded in Book 3338 of Official Records, Page 62, Contra Costa County Records; thence

leaving said point of beginning and said common corner Easterly along the Northern line of the said Dutra Parcel (3338 OR 62), said Northern line being common with the Southern line of said Dutra Parcel (3233 OR 587) North 89° 18' 47" East 3671.25 feet (North 89° 19' East 3657.9) to the Northeastern corner of the aforesaid Dutra Parcel (3338 OR 62), said Northeastern corner being common with the Northwestern corner of that parcel of land described in the deed from the Bank of America National Trust and Savings Association to Angelo Gill, et ux, recorded February 24, 1942, in Book 725 of Official Records, at Page 82, Contra Costa County Records; thence Southerly along the Western lines of said Gill Parcel (725 OR 82) the following courses and distances: South 8° 33' 56" East 540.86 feet (South 8° 35' West 540.86 feet); thence South 26° 06' 56" East 418.46 feet (South 26° 08' East 418.46 feet) to the Southwestern corner of said Gill Parcel; thence leaving said Southwestern corner Easterly along the Southern line of said Gill Parcel (725 OR 82) North 89° 21' 04" East 1157.89 feet (North 89° 20' East 1157.89 feet) to the Southeastern corner of said Gill Parcel (725 OR 82), said Southeastern corner being a point on the Western line of Bethel Island Road a 60 foot wide county road; thence leaving said Southeastern corner Southerly along said Western line South 0° 30' 56" East 1557.20 feet (South 0° 32' East 1557.2 feet); thence along a tangent curve, concave to the Northwest and having a radius of 50.00 feet through a central angle of 89° 38' 56" an arc distance of 78.23 feet (central angle of 89° 40' an arc distance of 78.25 feet) to a point of the Northern line of Cypress Road, a 60 foot wide county road; thence Westerly along said Northern line South 89° 08' 00" West 4892.11 feet (South 89° 08' West 4892.5 feet) to a point on the Northeastern line of the ten foot wide strip of land described in the deed from the Bank of America National Trust and Savings Association, to Earl M. Harrington, et ux, dated March 21, 1940 and recorded April 27, 1940, in Book 534 of Official Records, Page 309, Contra Costa County Records; thence leaving said Northern line Northwesterly along said Northeastern line North 45° 25' 00" West 196.23 feet (North 45° 25' West 195.4 feet) a point on the aforesaid Eastern line of Jersey Island Road, a 60 foot wide county road; thence leaving said Northeastern line Northerly along said Eastern line North 0° 38' 45" West 2397.42 (North 0° 21' West 2396.9 feet) to the point of beginning.

FURTHER EXCEPTING THEREFROM, that portion described in that certain Offer of Dedication – Road Purposes (fee title) to Contra Costa County, a political subdivision of the State of California, and its successors or assigns, recorded December 30, 2005, as Instrument No. 2005-0499229, Contra Costa County Records.

*Being APN 032-082-013*

### **PLANNING AREA 3:**

***Owner: DAL PORTO (SOUTH)***

#### ***PARCEL ONE:***

Portion of the South 1/2 of Section 28, Township 2 North, Range 3 East, mount Diablo Base and Meridian, described as follows:

Beginning on the North line of the South 1/2 of said Section 28 at the Northeast line of the 260 feet in width strip of land describe in the Deed from Bank of America National Trust and Savings Association to United States of America, dated November 30, 1937, and recorded June 16, 1938, in Book 473 of Official Records, Page 2; thence from said point of beginning South 44° 35' East along said Northeast line to the South line of said section 28; thence North 89° 58' East along said South line to the East line of said section 28; thence North 0° 18' East along said East line to the North line of the South 1/2 of said section 28; thence South 89° 58' West along said North line to a point which bears North 0° 02' West, 30 feet

from the Northeast corner of the parcel of land described in the Deed from O.V. Strickland, et ux, to A.J. Cooley, dated June 10, 1950 and recorded June 27, 1950, in Book 1582 of Official Records, Page 460; thence South 0° 02" East at 30 feet the Northeast corner of said Cooley parcel, a total distance of 4654.6 feet to the Southeast corner thereof; thence South 89° 58' West along the South line of said Cooley parcel, 1582 or 460, and along the direct extension South 89° 58' West thereof to the Northeast line of the 125 feet in width strip of land described as parcel 5 in the judgment entered November 15, 1930, under action No. 30173, in the district court of the united states in and for the Northern district of California, Southern division, a certified copy of which was recorded November 15, 1950, in Book 1668 Official Records, Page 494; thence North 30° 53' 47" West along said Northeast line and along the extension Northerly thereof to the North line of the South 1/2 of said section 28; thence South 89° 58' West along said North line to the intersection thereof with the Southwest line of said united states of America Parcel, 1668 or 494, extended North 30° 53' 47" West; thence South 30° 53' 47" East, along said extended line and along the Southwest line of said united states of America parcel, 1668 or 494, to a point which bears North 89° 58' East from the Southeast corner of the parcel of land described in the Deed from (O.V. Strickland, et ux, to Eugene Conness, et ux, dated April 10, 1950 and recorded April 11, 1950, in Book 1536 of Official Records, Page 123; thence South 89° 58' West to the Southeast corner of said Conness parcel, 1536 or 123; thence South 89° 58' west along the South line of said Conness parcel and along the direct extension South 89° 58' West thereof to the Southeast corner of the parcel of land described in the Deed from O.V, Strickland, et ux, to Dora M. Henry, et vip, dated June 27, 1949, and recorded July 25, 1949, in Book 1416 of Official Records, Page 274; thence South 89° 58' West along the South line of said Henry Parcel, 1416 or 274, 68.24 feet; thence South 89° 58' West to a point which is 45 feet Northeasterly measured at right angles from the Northeast line of said united states of America Parcel, 473 or 2; thence North 44° 35' West parallel with the Northeast line of said United States of America Parcel to the North line of the South 1/2 of the said section 28; thence South 89° 58' West along said North line to the point of beginning.

APN: 032-050-003

*EXCEPTING THEREFROM:*

1. The interest conveyed to Contra Costa County by Deed from Earl M. Harrington, et ux, dated September 22, 1941 and recorded October 16, 1941, in Book 633 of Official Records, Page 44, "For Use as a Public Highway" over that portion of the premises lying within Cypress Road and Bethel Island Road.
2. Parcel "A", as shown on Parcel Map MS 950010, filed February 24, 2000, Parcel Map Book 178, Page 15, Contra Costa County Records.

APN: 032-050-003

**PLANNING AREA 4:**

**Owner: BETHEL ISLAND, LLC**

*PARCEL ONE:*

Portion of Section 33 and portion of Section 34, Township 2 North, Range 3 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the corner common to Section 27, 28, 33 and 34 and running thence along the line

common to Sections 27 and 34, South 89° 43' East 814.2 feet to an iron pipe; thence South 0° 23' 30" West 2560.2 feet to an iron post; thence South 0° 23' 30" West, 75.6 feet to a point on the East and West Midsection line of said Section 34; thence along said Midsection line South 89° 54' 15" West, 640.4 feet to a point on the northeasterly line of the right of way of the Contra Costa Canal; thence along said Northeasterly line North 44° 35' West 3724.9 feet to a point on the line common to Sections 28 and 33; thence along said common line South 89° 43' East 2458.9 feet to the point of beginning.

*EXCEPTING FROM PARCEL ONE:*

Any portion of said land which is or ever was tide or submerged lands.

*PARCEL TWO:*

Portion of the North 1/2 of Section 34, Township 2 North, Range 3 East, Mount Diablo Base and Meridian, described as follows:

Beginning at an iron pipe on the line common to Sections 27 and 34 which pipe bears South 89° 43' East 814.2 feet from the corner common to Sections 27, 28, 33 and 34 and running thence along said common line South 89° 43' East 4184.1 feet to an iron pipe; thence continuing along said common line South 89° 43' East 281.7 feet to the corner common to Sections 26, 27, 34 and 35; thence along the line common to Sections 34 and 35 South 1° 01' West 2606.6 feet to the East Quarter corner of said Section 34; thence along the East and West midsection line of said Section 34 South 89° 54' 15" West 4437.6 feet; thence North 0° 23' 30" East 75.6 feet to an iron post; thence North 0° 23' 30" East 2560.2 feet to the point of beginning.

*EXCEPTING THEREFROM:*

- 1) That portion reserved in the Deed from Title Insurance and Trust Company, a California corporation, (Trustee) to Arthur E. Honegger, recorded 3/21/74 in Book 7182 of Official Records, at Page 27, as Instrument No. 22182, described as follows:

Beginning at the northeasterly corner of Parcel 2 above, running thence along the easterly line thereof South 1° 01' West 1717.51 feet; thence North 88° 59' West 900 feet; thence North 01° 01' East 1,707.00 feet to the northerly line of said Parcel 2; thence along said line 900.07 feet to the point of beginning.

- 2) Any portion of said land which is or ever was tide or submerged lands

APN: 020-150-003 and 020-140-007

**PLANNING AREA 6:**

**Owner: PACIFIC WEST COMMUNITIES**

*PARCEL ONE:*

Parcel "C", as shown on the Parcel Map, filed August 12, 1968, in Book 4 of Parcel Maps, Page 49, Contra Costa County Records.

*Being APN 032-082-010*

*PARCEL TWO:*

Parcel "D", as shown on the Parcel Map, filed August 12, 1968, in Book 4 of Parcel Maps, Page 49,  
Contra Costa County Records.  
Being APN 032-082-011.