

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2008-0078**

APPROVING STATE REVOLVING FUND (SRF) FINANCING AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE SRF PROGRAM FOR CITY OF MERCED (CITY) WASTEWATER TREATMENT PLANT (WWTP) UPGRADE AND EXPANSION PROJECT (PROJECT); SRF PROJECT NO. C-06-4682-110

WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the “*Policy for Implementing the State Revolving Fund for Construction of Wastewater Treatment Facilities*” (Policy) and amended it on July 17, 2007;
2. The State Water Board, in September 2008, adopted the State Fiscal Year 2008/2009 SRF Program Priority List which included the City’s Project in Priority Class C;
3. The Division of Financial Assistance (Division) approved the Facility Plan for the City’s Project on August 6, 2008. The City agreed to the Facilities Plan Approval on August 7, 2008;
4. The City prepared an Environmental Impact Report (EIR) for the proposed Project, distributed it to the public, and circulated it through the State Clearinghouse (SCH No. 2005101135);
5. The City certified the EIR, approved the Project, and adopted a Mitigation and Monitoring Plan and a Statement of Overriding Considerations for the Project on December 18, 2006;
6. The City filed a Notice of Determination with the Merced County Clerk on December 20, 2006, and with the Governor’s Office of Planning and Research on July 17, 2008;
7. USFWS identified conservation measures in their Biological Opinion to minimize potential adverse Project effects on the valley elderberry longhorn beetle and the giant garter snake. The City Council approved on June 16, 2008, a Memorandum of Understanding (MOU) between the City and U.S. Fish and Wildlife (USFWS) for processing development applications as a result of the WWTP expansion. The terms and conditions from USFWS and the MOU will be included as Special Conditions in exhibit D of the City’s SRF financing agreement;
8. The State Water Board has determined that the significant unavoidable adverse impacts resulting from the Project are growth inducement and the loss of 20 acres of open space resulting from the expansion of the WWTP;

9. The State Water Board finds that the following specific economic, social, technological, and environmental benefits of the Project outweigh the unavoidable adverse environmental impacts from the loss of farmland and inducement of growth:
 - a. The Project will increase the quality of the effluent discharged into Hartley Slough. Higher effluent quality helps fulfill the Central Valley Regional Water Quality Control Board objective to improve waste discharge quality and water quality within the slough.
 - b. The Project will provide wastewater treatment capacity to meet future demand, as described in the 1997 Merced Vision 2015 General Plan, and the University of California, Merced Campus Long Range Development Plan (UC-Merced LRDP).
 - c. The Project will help fulfill the City's General Plan objective of updating sanitary sewer infrastructure and facilitating build-out of the Specific Urban Development Plan and UC-Merced LRDP.
 - d. The City Council approved an MOU between the City and USFWS for processing development applications to ensure protection of sensitive biological species.
10. State Water Board staff reviewed and considered the applicable environmental documents and determined that the Project will not result in any significant adverse water quality impacts; and
11. An independent credit review was completed on September 10, 2008, recommending a credit limit of \$38.5 million for this project.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the above Statement of Overriding Considerations for this Project;
1. Approves a \$37 million SRF Preliminary Funding Commitment (PFC) for the proposed Project, including a 20-year repayment period, with the first repayment due one year after completion of construction;
2. Conditions this approval by withdrawing the SRF PFC if the City does not sign the SRF financing agreement by December 30, 2009, in accordance with Section IX (J) of the Policy. The Division staff has the discretion to approve up to a 90-day extension for good cause;
3. Conditions the financing agreement, as determined by the City's credit review, with the following terms:
 - a. The financing agreement shall be limited to a maximum of \$38.5 million unless information supporting the credit review changes and a supplemental credit review is performed.

- b. The financing agreement shall be secured on parity with the outstanding Series 2004A Bonds.
 - c. The City shall fund a reserve fund of one year's debt service prior to completion of construction date; and
4. Conditions this approval with the terms and conditions from USFWS and the MOU as Special Conditions in the City's SRF financing agreement.

CERTIFICATION


The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on November 4, 2008.

AYE: Chair Tam M. Doduc
Vice Chair Gary Wolff, P.E., Ph.D
Arthur G. Baggett, Jr.
Frances Spivy-Weber

NAY: None

ABSENT: Charles R. Hoppin

ABSTAIN: None



Jeanine Townsend
Clerk to the Board