



REGULAR BOARD OF DIRECTORS MEETING

501 Taft Highway
Bakersfield, California

TUESDAY, November 7, 2023

AGENDA

CALL TO ORDER AND ANNOUNCEMENT OF QUORUM

12:00PM

CLOSED SESSION:

- A. Conference with Legal Counsel – Existing Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(1):
1. SWRCB Kern River.
 2. Rosedale Rio Bravo Water Storage District, et al. v. Kern County Water Agency, et al. (CVC).
 3. Kern Delta Water District et al. v. Rosedale Rio Bravo Water Storage District et al. (Onyx Ranch CEQA).
 4. Rosedale Rio Bravo Water Storage District v. Buena Vista Water Storage District, et al. (Onyx Ranch Water Rights).
 5. Bring Back the Kern, et al. v. City of Bakersfield, et al.
 6. Sierra Club v. California Department of Water Resources (Delta Conveyance Project Validation).

REGULAR SESSION:

INTRODUCTION OF GUESTS AND PUBLIC

- I. PUBLIC COMMENT** (Members of the public may address the Board of Directors on any matter not on the agenda, but absent extraordinary circumstances, the Board may not act on such matters. Members of the public may address items of interest that are listed on the agenda prior to the Board's decision on such items.)
- II. MANAGER'S REPORT** (The General Manager will discuss, and the Board will consider various items and issues relating to the ongoing and future operations of the District which are of interest to the Board)
- A. Approve Minutes of the Regular Board Meeting of October 17, 2023.
- B. Review and Approval of Plans and Common Use Agreement for the Pipelining of a Section of the Branch II Canal Along the East Side of Gosford Road North of McCutchen Road (Tract 6873).
- III. BOARD MEMBER COMMENTS** (This item provides Board Members with an opportunity to make announcements or provide general comments.)
- IV. ADJOURN**

Requests for disability related modifications or accommodations, including auxiliary aids or services may be made by telephoning or contacting Madelyne Rodriguez at the District Office (661-834-4656). Please attempt to make such requests known at least 24 hours before the scheduled meeting. Pursuant to Government Code section 54957.5, any materials relating to an open session item on this agenda, distributed to the Board of Directors after the distribution of the agenda packet, will be made available for public inspection at the time of distribution at the District, 501 Taft Highway, Bakersfield, CA.

Tab II





**MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS**

October 17, 2023

TUESDAY, October 17, 2023, 12:07PM– 3:32PM

DIRECTORS PRESENT: Palla, Mendonca, Antongiovanni, Tillema, Garone, Spitzer, Fanucchi, Borba, and Kaiser.

DIRECTORS ABSENT:

STAFF PRESENT: General Manager Teglia, Water Resources Manager Mulkay, Assistant General Manager Bellue, General Counsel Iger, Controller Duncan, Hydrographer Hyatt, and Groundwater Manager Marquez.

OTHERS PRESENT: Geoffrey Vanden Heuvel

CLOSED SESSION DECLARED AT 12:07PM

President Palla called to order the Closed Session of the Kern Delta Board of Directors at 12:05PM regarding the following agenda items:

A. Conference with Legal Counsel – Existing Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(1):

1. SWRCB Kern River.
2. Rosedale Rio Bravo Water Storage District, et al. v. Kern County Water Agency, et al. (CVC).
3. Kern Delta Water District et al. v. Rosedale Rio Bravo Water Storage District et al. (Onyx Ranch CEQA).
4. Rosedale Rio Bravo Water Storage District v. Buena Vista Water Storage District, et al. (Onyx Ranch Water Rights).
5. Bring Back the Kern, et al. v. City of Bakersfield, et al.
6. Sierra Club v. California Department of Water Resources (Delta Conveyance Project Validation).

B. Conference with Legal Counsel – Potential Litigation – Closed Session Pursuant to Gov. Code § 54956.9(d)(2),(e)(1):

1. One Matter.

Closed Session concluded at 1:09PM.

REGULAR SESSION DECLARED AT 1:12PM

President Palla called to order the Regular Session of the Kern Delta Board of Directors at 1:12PM.

Closed Session Report: District General Counsel Iger reported the following:

Item A: No reportable action.

Item B: No reportable action.

INTRODUCTION OF GUESTS AND PUBLIC

Those listed as Others Present were introduced.

I. PUBLIC COMMENT

None.

II. CONSENT CALENDAR

M/S/C (Borba/Mendonca) (yes-9, no-0): By unanimous vote the Board approved and authorized items II A through II C of the Consent Calendar.

- A. Approval of Minutes from the Regular Board Meeting of September 19, 2023.
- B. Approval of the September/October District Construction and Water Banking Project(s) Disbursements.
- C. Approval of the September/October District Disbursements.

III. BUSINESS AND FINANCE

A. Business & Finance Committee Report – October 12, 2023: District Controller Duncan provided a report from the October Business & Finance Committee Meeting.

A(i). Approval of September 2023 Financial Reports: Mr. Duncan presented the September 2023 District and Water Banking Project(s) Financial Statements, Treasurer’s Reports, and District Delinquency Report.

M/S/C (Garone/Tillema) (yes-9, no-0): By unanimous vote the Board approved the September 2023 District and Water Banking Project(s) Financial Statements, Treasurer’s Reports, and Delinquency Report as presented.

B. District Quarterly Investment Review: Staff provided a brief verbal update supplementing the information included in the Board packet regarding current District investments as of September 30, 2023. During the investment review, the Board agreed with a staff recommendation to open a JP Morgan Money Market Fund account specifically for the Sunset Water Banking Project. This fund will be 100% invested in U.S. Treasuries and will provide a greater return on current balances compared to the County Treasury.

IV. OPERATIONS AND PROJECTS

A. - A(i-iv). Operations and Projects Committee – October 3, 2023: Assistant General Manager Bellue briefly reported on several items. Mr. Bellue’s update included District maintenance activities, recent encroachment permit requests, pending development projects impacting District facilities, and a status update related to the Sunset Groundwater Banking project.

B. Consideration of Old River Groundwater Banking Project Recovery Well Development Options: Staff provided an overview of a memorandum included in the Board packet which provided an analysis of several recovery well development options. These options included the development of one or two wells, location of said well(s) within the Old River Groundwater Banking Project area, well depth, and VFD vs soft-start

options, among other details. Following a discussion on the matter, the Board directed staff to take the necessary steps to develop a bid package for a single 18” diameter recovery well located on the east side of the property at a depth of 800’ utilizing a soft start drive option. Once staff has received the bid responses, this item will return to the Board for further review and action.

V. WATER RESOURCES REPORT

A. - A(i-iii). District Watermaster Report: Staff reviewed and discussed the water supplies of the District for the month of September and early October. Approximately 27,234 acre-feet of water was diverted in District during September. Staff also provided information related to current precipitation totals and future forecasts. Staff also highlighted that the District purchased 5,000af of water from North Kern, which will be run either in District or to the Pioneer Project by November 15, 2023.

B. - B(i). Kern River Watermaster Report: The October Kern River Watermaster Report and Isabella construction update was included in the Board packet.

C. District Groundwater Manager Report: Groundwater Manager Marquez provided graphical information regarding depth to groundwater at various monitoring locations throughout the District. In addition, Ms. Marquez provided a brief update regarding other work she is engaged in with respect to other regulatory programs such as the Irrigated Lands Regulatory Program and SGMA.

VI. MANAGER’S REPORT

Note: Director Garone left the meeting at 3:00PM.

A(i). Board Technology Stipend: General Manager Teglia introduced the topic by explaining that it has been over six years since the District provided each director with an electronic devise suitable for their duties. Teglia recommended that moving forward the District provide each director with a technology stipend in the amount of \$700 every 4 years. The stipend will allow each director to procure a suitable device and any software they may require.

M/S/C (Antongiovanni/Kaiser (yes-8, no-0)): By unanimous vote, with Director Garone absent, the Board approved the Board Technology Stipend payable to each director in the amount of \$700 every four (4) years.

A(ii). SGMA Update: Mr. Teglia provided a brief verbal report regarding current SGMA activities. This included a discussion regarding basin wide coordination efforts.

B. External Agency Report: Mr. Teglia provided verbal comments supplementing a memorandum included in the Board package which provided information on the meetings and activities of various external agencies. These agencies include, but are not limited to, the Kern County Water Agency, Kern Fan Authority, Kern River Watershed Coalition Authority, Kern Groundwater Authority, Kern River Groundwater Sustainability Agency, the South Valley Water Resources Authority, the Water Association of Kern County, and the Integrated Regional Water Management Plan. Teglia made specific reference to the WAKC Annual Dinner, which is scheduled for November 8, 2023 at Stockdale Country Club.

C. Water Banking Projects Report: Mr. Teglia provided verbal comments supplementing a memorandum included in the Board package which provided information on water banking project activity on the Kern Fan as well as District banking activities.

VII. ATTORNEY’S REPORT

A. VAWC Legislative Update: Mr. Iger provided the Board with a brief legislative update, including a

reference to the VAWC Legislative Update which was included in the Board packet.

VIII. BOARD MEMBER COMMENTS

Note: Director Mendonca left the meeting at 3:31PM.

IX. ADJOURNMENT:

There being no further business, President Palla adjourned the meeting at approximately 3:32PM.

Respectfully Submitted,



Steven Teglia, General Manager

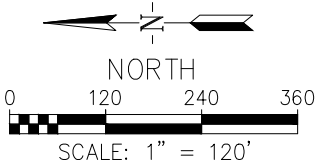
Approved by Board,



Richard Tillema, Board Secretary

TRACT 6873

EXISTING 35'-WIDE EASEMENT FOR BRANCH II FROM McCUTCHEN ROAD TO THE SOUTH



EXISTING R/W FOR BRANCH II, 80'-WIDE, CENTERED ON EXISTING CANAL

GRADING FOR TEMPORARY RE-CONNECTION TO EXISTING CANAL SECTION MAY BE REQUIRED SEE SHEET 38

ACCESS BOX DETAILS SEE SHEETS 15-23

PROPOSED 40'-WIDE R/W FOR BRANCH II PIPELINE (AS PROPOSED BY McINTOSH, UNDER REVIEW BY KDWD)

PROPOSED 54" RCP PIPELINE PLAN & PROFILE: SEE SHEETS 5-9

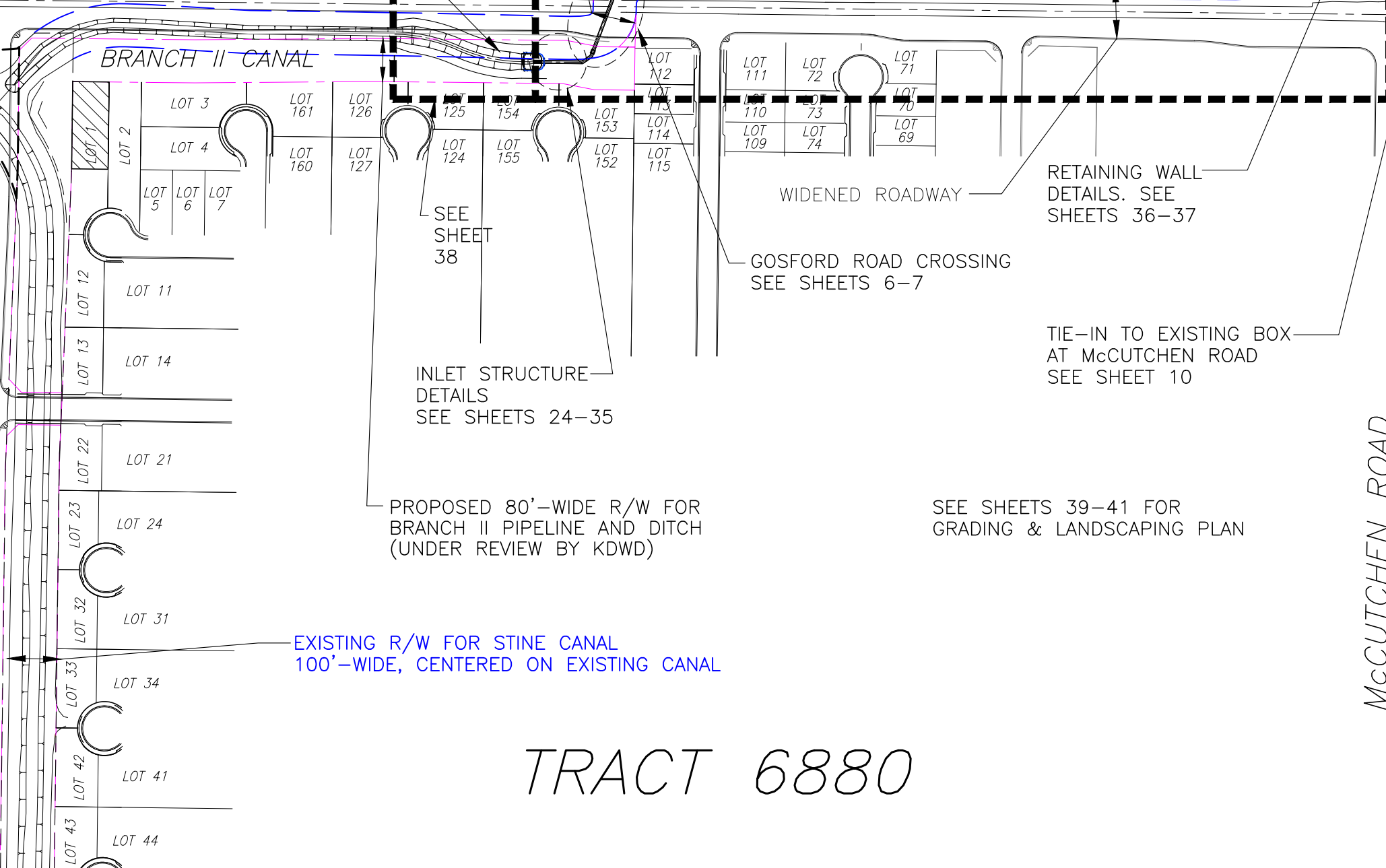
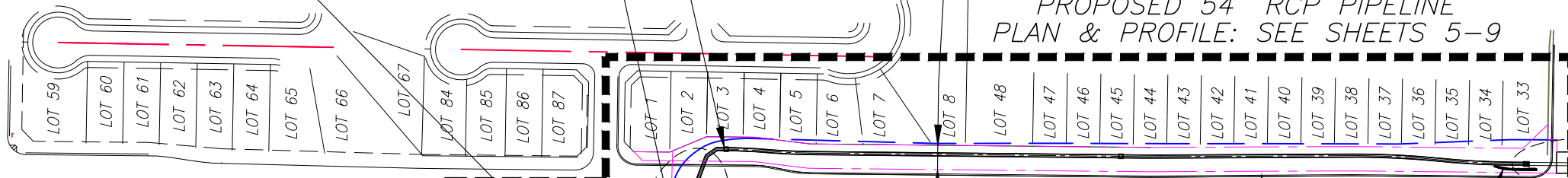
GOSFORD ROAD

STINE CANAL

BRANCH II CANAL

BERKSHIRE ROAD (FUTURE)

McCUTCHEN ROAD



SEE SHEET 38

INLET STRUCTURE DETAILS SEE SHEETS 24-35

PROPOSED 80'-WIDE R/W FOR BRANCH II PIPELINE AND DITCH (UNDER REVIEW BY KDWD)

EXISTING R/W FOR STINE CANAL 100'-WIDE, CENTERED ON EXISTING CANAL

WIDENED ROADWAY

GOSFORD ROAD CROSSING SEE SHEETS 6-7

RETAINING WALL DETAILS. SEE SHEETS 36-37

TIE-IN TO EXISTING BOX AT McCUTCHEN ROAD SEE SHEET 10

SEE SHEETS 39-41 FOR GRADING & LANDSCAPING PLAN

TRACT 6880



REV.	DATE	DESCRIPTION
1	SEPTEMBER 26, 2023	DATE: SEPTEMBER 26, 2023
2		SCALE: AS NOTED
3		DRAWN BY: A. TAYLOR
4		CHECKED BY: W. ZEIDERS
5		FILE NAME: STINE BRANCH II BASE.dwg

**STINE BRANCH II @ GOSFORD ROAD
DITCH RELOCATION**
OVERALL SITE PLAN

ZEIDERS CONSULTING
1655 GREELEY ROAD
BAKERSFIELD, CA. 93314
(661) 589-8366

THREE PARTY COMMON USE AGREEMENT

Agreement No. _____

THIS AGREEMENT is made on _____, by and between **KERN DELTA WATER DISTRICT**, a California water district (“**District**”), **LGI HOMES - CALIFORNIA, LLC.**, (“**Applicant**”), and the **CITY OF BAKERSFIELD** (“**City**”). District, Applicant, and City are sometimes hereinafter individually or collectively called a “**Party**” or the “**Parties**”.

RECITALS:

WHEREAS, Applicant owns certain real property in the City of Bakersfield, County of Kern, State of California, commonly referred to as Assessor Parcel Nos. 539-010-66 and 539-010-67 (the “**Applicant Property**”); and

WHEREAS, District is the owner and operator of an irrigation canal commonly known as the **Branch Two** (“**Canal**”) now existing as an open ditch and is the owner of an easement and right-of-way over and across a portion of the Applicant Property; and

WHEREAS, Applicant desires to improve the crossing at Gosford Road, extend the existing box culvert where the Canal crosses McCutchen Road (“**Street Crossings**”), and place the Canal on the eastside of Gosford Road into a pipeline (“**Pipeline**”) (Street Crossings and Pipeline are collectively referred to as “**Facilities**” herein). **Facilities** are within City’s Street right of way (“**Area of Common Use**”) as shown in Exhibit “A” to substitute the existing open ditch; and

WHEREAS, City acknowledges that the Facilities will maintain the “first in time” priority over City’s road right-of-way; and

WHEREAS, District is willing to consent to the construction of the Facilities in the Area of Common Use on the conditions identified below.

AGREEMENT:

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, IT IS AGREED AS FOLLOWS:

1. Construction of Facilities:

a. Applicant has prepared, at its expense, detailed plans, and specifications (including bid and contract documents) for the construction of Facilities to be installed within the Area of Common Use which have been approved in writing by the District and City (the “**Approved Plans**”). While not attached as an exhibit, the Approved Plans are incorporated herein and made a part hereof.

b. Applicant agrees to construct and install the Facilities in strict compliance with the Approved Plans. In no event shall Applicant install additional or different facilities without first obtaining the written approval of District and City. In all instances, said construction and installation work shall be done at a time that will not interfere with the flow or distribution of water through the Canal as required and approved by District in writing, unless that requirement is waived by the District in writing. Applicant acknowledges and agrees that work on the Facilities can commence on the assigned date approved by the District and City in writing (the “**Commencement Date**”). Once the Canal is shut down, failure to complete work on the Facilities by the assigned date for completion approved by the District in writing (the “**Completion Date**”) will result in liquidated damages of \$10,000.00 per day for every day the Canal is shut down or interferes with the flow or distribution of water through the Canal beyond the assigned Completion Date unless District grants an extension to Applicant in writing.

c. Applicant shall pay the entire cost of laying, constructing and installing the Facilities including the costs of all labor and materials incurred or used in connection with the installation, trenching, backfilling, leveling and testing of the same, and the cost of all engineering, professional and other necessary services furnished by District, City, or others in connection therewith. In addition, either District or City may hire at Applicant's expense a construction inspector to inspect the work performed by Applicant. Applicant shall provide District and City copies of all as-built drawings depicting the location of the Facilities as constructed.

d. In the event Applicant does not pay the entire cost as described in Section 1.c and complete said work as provided in this Agreement, District or City may, but shall not be required to, pay such costs and complete such work, and Applicant agrees to repay District or City, as the case may be, any amount so expended together with interest thereon at ten percent (10%) per annum from the date the same is expended until the date of repayment. In the event District or City is required to complete said work as provided in this Agreement, Applicant acknowledges and agrees that Applicant shall still be subject to and liable for the liquidated damages specified herein until District or City completes said work.

e. Applicant agrees that, upon completion of construction and installation of Facilities to the satisfaction of the District and City, Applicant will provide District with a new 40-foot-wide easement in the location of the new pipeline as shown in Exhibit “B”. The Street Crossings shall become and remain the property of City, and the Pipeline shall become and remain the property of District. District shall be in sole and absolute control of the manner, method, and time of conducting and discharging water through Facilities.

2. Common Use and Priority

a. District and City hereby consent to the construction, operation, maintenance, and use of the Facilities in the Area of Common Use subject to the terms and conditions contained herein.

b. Applicant and City acknowledge District's Easement and the priority of District's title over Applicant's rights in the Area of Common Use. Except as expressly set forth

herein, this Agreement shall not in any way alter, modify, or terminate the legal rights of District in District's Easement or the Canal or the rights of City in City's Easement or the Road.

c. District has and reserves the right to use the Area of Common Use for all the purposes for which District's Easement was acquired, without need for any further permit or permission from Applicant and/or City. Notwithstanding, to maintain public safety and to avoid future liability, District will notify City when it intends to construct in the Area of Common Use and City will issue a no fee permit to District. City has and reserves the right to use the Area of Common Use for all the purposes for which City's Easement was acquired not inconsistent with District's use. Applicant and City shall use the Area of Common Use in such a manner as to not unreasonably interfere with District's right to use Canal for any and all lawful purposes. Applicant and District shall use the Area of Common Use in such a manner as to not unreasonably interfere with City's right to use Road for any and all lawful purposes.

d. Any construction work in the Area of Common Use shall be done at a time that will not interfere with the flow or distribution of water through the Canal as required and approved by District and not unreasonably interfere with the Facilities or interfere with the use of the road as required and approved by City.

3. Maintenance of the Area of Common Use.

a. City shall maintain the Crossings and any sidewalk or landscaping within the Area of Common Use in good condition and repair and shall pay all costs of such repairs and maintenance and of any replacement of any part thereof required to provide safe access to the Area of Common Use. City shall conduct maintenance activities in a manner that ensures there is no interruption to the flow of the Canal.

b. In the event City fails, neglects, or refuses to repair, maintain, or promptly replace any portion of the Facilities that is in such a state of disrepair as to cause interruptions to District's operations, District shall provide City with written notice of the situation with a timeframe for when repairs need to be completed. If City fails to make the necessary repairs within a time provided in the letter, District shall have the right to make the necessary repairs to the Facilities and will bring it back up to grade. If District elects to make any repairs, City will reimburse District for the total cost of the work done. City will be responsible for any paving or replacement of landscaping within the Area of Common Use.

4. Security and Fees:

a. Applicant agrees to furnish District a cash deposit or performance bond in the amount of \$1,900,000 payable to District should Applicant fail to complete the Facilities as required by this Agreement.

b. Applicant agrees to pay \$176,385.60 to replace operational recharge capacity lost due to construction of the Pipeline.

c. Applicant agrees to pay a maintenance fee \$95,000.00 (5% of Engineers estimate) to cover the long term maintenance of the Pipeline.

5. Miscellaneous:

a. By entering into this agreement District does not extinguish, abandon, forfeit, relinquish, waive, modify, limit, restrict, or alter in any way District's water rights, including but not limited to, any and all water rights associated with or conveyed across the Area of Common Use, and this agreement further does not and will not restrict, interrupt, limit, or diminish District's use of and access to any of this water rights and water supplies.

b. Indemnity:

i. For Benefit of District. Applicant hereby agrees and undertakes to indemnify, defend and hold harmless District, its officers, agents, and employees from any and all losses, costs, expenses (including reasonable attorneys' fees), claims, liabilities, actions or damages of any nature whatsoever, including injuries to or the death of any person or persons or damage to any property, in any way arising out of or connected with or incident to or alleged to have arisen in any manner out of, or to have been in any way connected with or incident to any negligent or reckless act or omission or willful misconduct of Applicant, its officers, agents, employees, contractors, subcontractors, or independent contractors in the performance of this Agreement or to have occurred as a result of any, negligent or reckless acts or omissions or willful misconduct by Applicant, its officers, agents, and employees in the performance of this Agreement.

ii. For Benefit of City. Applicant hereby agrees and undertakes to indemnify, defend and hold harmless City, its officers, agents, and employees from any and all losses, costs, expenses (including reasonable attorneys' fees), claims, liabilities, actions or damages of any nature whatsoever, including injuries to or the death of any person or persons or damage to any property, in any way arising out of or connected with or incident to or alleged to have arisen in any manner out of, or to have been in any way connected with or incident to any negligent or reckless act or omission or willful misconduct of Applicant, its officers, agents, employees, contractors, subcontractors, or independent contractors in the performance of this Agreement or to have occurred as a result of any negligent or reckless acts or omissions or willful misconduct by Applicant, its officers, agents, and employees in the performance of this Agreement.

c. Any contractor working in the Area of Common Use shall procure and maintain general liability insurance, providing coverage on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence. The liability policy shall contain an additional insured endorsement which shall expressly name the District, the City, their officers, agents, servants, employees and consultants as additional insureds, without limitation. In addition, the contractor and/or subcontractors shall maintain workers' compensation insurance while working within the Area of Common Use. The workers' compensation policy shall contain an

express waiver of subrogation endorsement in favor of the District, the City, their officers, agents, servants, employees and consultants. Said additional insured endorsement and workers' compensation subrogation endorsement shall be furnished in the form approved by the District's and City's legal counsel prior to any work authorized pursuant to this Agreement.

d. District, City, and Applicant shall not become or be deemed partners or joint venturers or associates by reason of the provisions of this Agreement. No Party shall for any purpose be considered an agent, officer or employee of the other Party.

e. The failure of any Party to enforce against another Party any provision of this Agreement shall not constitute a waiver of that Party's right to enforce such a provision at a later time and shall not serve to vary the terms of this Agreement.

f. This Agreement may be modified only in writing approved by District, City, and Applicant and signed by all the Parties.

g. In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions or specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement whether or not actually attached.

h. All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The Parties shall be addressed as follows, or at any other address designated by notice:

DISTRICT: Kern Delta Water District
501 Taft Highway
Bakersfield, CA 93307
Attn.: Steven Teglia, General Manager

APPLICANT: LGI Homes - California, LLC.
1450 Lake Robbins Drive, Suite 430.
The Woodlands, TX 77380
Attn: Vice President of Land Development

CITY: City of Bakersfield
Public Works Dept.
1501 Truxtun Avenue
Bakersfield, CA 93301
Attn: Manpreet Behl

i. The laws of the State of California will govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in Kern County, California.

j. Neither this Agreement, nor any interest in it, may be assigned or transferred by any Party without the prior written consent of all the Parties. Any such assignment may be subject to additional terms and conditions not set forth herein.

k. The rights and obligations of this Agreement shall inure to the benefit of, and be binding upon, the Parties to this Agreement and their heirs, administrators, executors, personal representatives, successors and assigns.

l. Each individual signing this Agreement on behalf of the respective entities represents and warrants that he or she is, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

m. Each Party shall execute and deliver such papers, documents, and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the Parties to this Agreement.

n. This Agreement is made for the benefit of the Parties hereto and is not intended to confer any benefit upon any third party.

o. District and Applicant agree that neither will hold District's engineer responsible for alleged engineering defects in the above-described Facilities unless such claim results from such engineer's failure as District's consultant to exercise the judgment and care, under circumstances then prevailing, which duly licensed civil engineers of prudence, skill, discretion and intelligence would exercise in (1) the review and approval of the plans and specifications for the design and construction of the subject facilities or (2) any review or supervision of construction necessary to protect the District's interests in insuring the adequacy and integrity of the new facilities.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed the day and year first above written.

“DISTRICT”
KERN DELTA WATER DISTRICT

“APPLICANT”
LGI HOMES - CALIFORNIA, LLC.

Steven Teglia
General Manager

Keith Sprague
Vice President of Land Development

Approved as to Form:

Richard Iger
General Counsel

“CITY”
CITY OF BAKERSFIELD

Approved as to Content:

Gregg Strakaluse
Director of Public Works

Approved as to Form:

Viridiana Gallardo-King
Deputy City Attorney

Exhibit A

KEY

[Blue hatched box] = AREA OF COMMON USE AGREEMENT BETWEEN KDWD AND CITY OF BAKERSFIELD

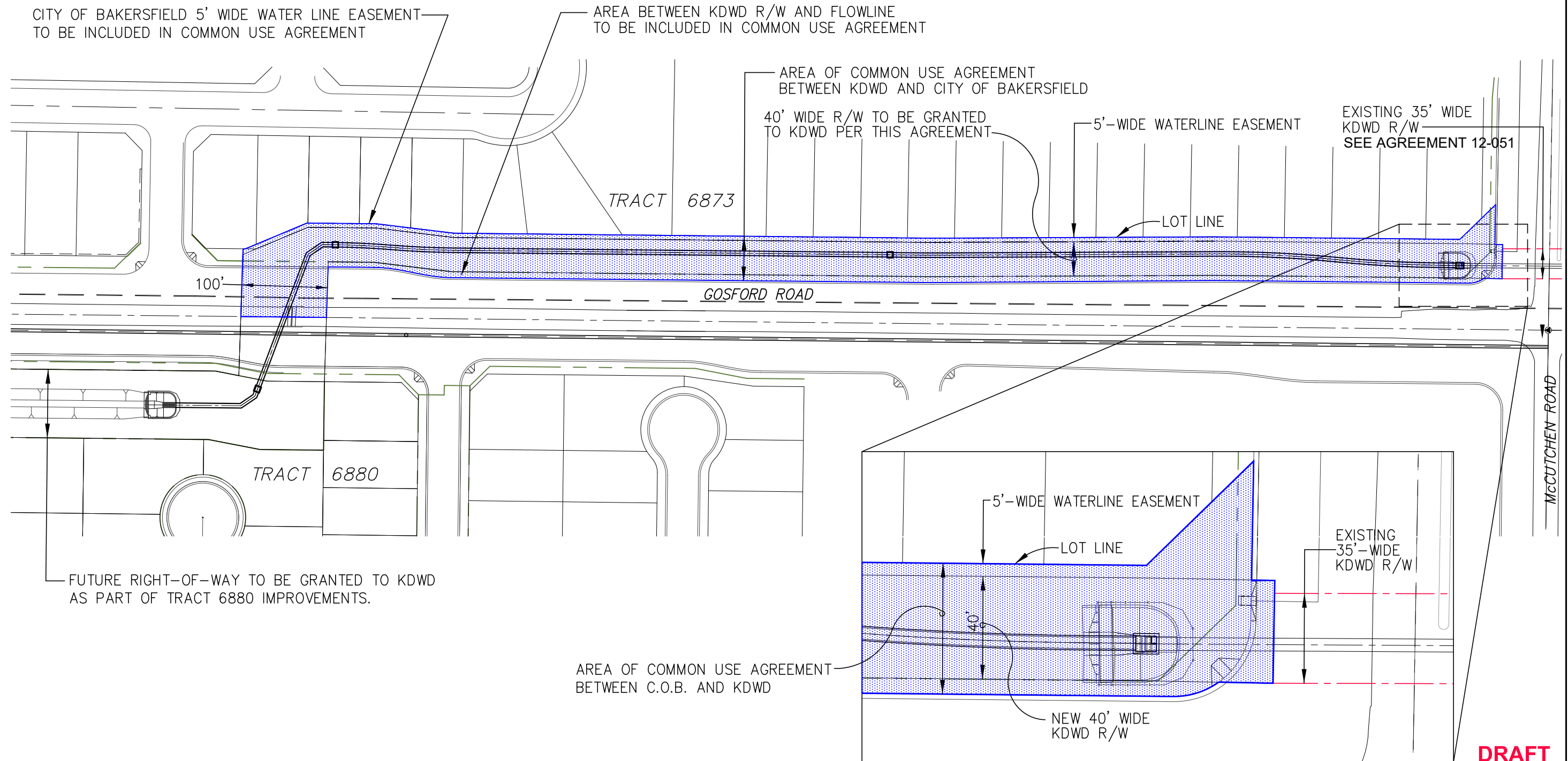
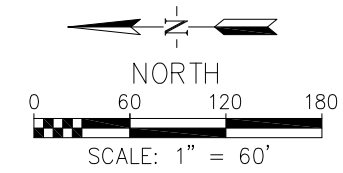


Exhibit B

KEY

[Red hatched box] = NEW RIGHT-OF-WAY TO BE GRANTED TO KERN DELTA WATER DISTRICT AS PART OF THE IMPROVEMENTS TO DISTRICT FACILITIES REQUIRED FOR TRACT 6873

