#### SOUTH DAKOTA BOARD OF REGENTS

# **Budget and Finance Consent**

AGENDA ITEM: 5 – K DATE: October 4-5, 2023

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#### **SUBJECT**

**Trojan Village LLC Easement Resolution (DSU)** 

#### CONTROLLING STATUTE, RULE, OR POLICY

SDCL 5-2-10 & 5-2-11.

#### **BACKGROUND / DISCUSSION**

Trojan Village LLC is seeking an easement for two storm sewer drainage pipes across a portion of land occupied by Dakota State University (DSU) in Lake County. The locations of the drainage pipes do not unnecessarily interfere with DSU's use of the land and the drainage was previously contemplated and planned for during a drainage study conducted for DSU's adjacent sites.

#### IMPACT AND RECOMMENDATION

DSU requests that the Board of Regents adopt the Resolution set forth in Attachment I requesting the grant of easements to Trojan Village LLC to erect, construct, reconstruct, replace, repair, use, maintain and operate two storm sewer drainage pipes, together with all necessary and appurtenant incidental structures and appliances necessary for the operation and maintenance of such storm sewer drainage pipes. The foregoing will allow Trojan Village LLC to locate and/or maintain a portion of its storm sewer drainage pipes on a portion of BOR's property to properly account for drainage on its site and not cause undue impact to the surrounding watershed areas.

Staff recommends approval.

#### **ATTACHMENTS**

Attachment I – Resolution Requesting the Grant of an Easement to Trojan Village LLC. Attachment I, Exhibit I – Draft Easement to Trojan Village LLC.

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#### **DRAFT MOTION 20231004 5-K:**

I move to approve and adopt the Resolution set forth in Attachment I, requesting the Commissioner of School and Public Lands to proceed with the easements as stated therein.

#### RESOLUTION

Resolution requesting the grant of an easement through, under, in, on and across portions of land occupied by the Dakota State University for the use and benefit of Trojan Village, LLC.

The South Dakota Board of Regents (hereinafter referred to as "Grantor"), on behalf of Dakota State University, in consideration of one dollar (\$1.00) and other good and valuable consideration, and pursuant to the authority vested in Grantor under SDCL § 5-2-11, hereby requests the Commission of School and Public Lands to draw up all necessary documents and to forward them to the Governor to request their execution in order to ratify, effectuate, or grant to Trojan Village, LLC, an easement to erect, construct, reconstruct, replace, repair, use, maintain, and operate two storm sewer drainage pipes, together with all necessary and appurtenant incidental structure and appliances necessary for the operation and maintenance of such storm sewer drainage pipes through, under, in, on, and across the following legally described real estate within Lake County:

A strip of land twenty-five (25) feet in width, consisting of twelve and one-half (12.5) feet on either side of the center of the storm sewer drainage pipe as constructed, and one hundred and fifty (150) feet in length, situated in Lots Two (2) and (3) of Block One (1) of DSU Foundation Addition to the City of Madison, Lake County, South Dakota, and

A strip of land twenty-five (25) feet in width, consisting of twelve and one-half (12.5) feet on either side of the center of the storm sewer drainage pipe as constructed, and 42 feet in length, situated on Lot Three (3) of Block One (1) of DSU Foundation Addition to the City of Madison, Lake County, South Dakota,

as further shown in Exhibit "A" to Exhibit I, a copy of which is attached hereto and incorporated into this agreement, the same as if written at length herein.

Grantor requests that any ratification, effectuation, or grant of easement be consistent with, or responsive to, the issues identified in the draft grant of easement prepared by the Office of School and Public Lands and attached hereto as Exhibit I, without restricting the ability of the parties to further revise, negotiate, and finalize the details of the final document(s).

Grantor requests that any ratification, effectuation, or grant or easement provides that the Grantor shall not be liable for any personal injury, property damage, or other liability to Grantee, its agents, employees, invitees, or to any other party cause by or related to Grantee's use of the premises, irrespective of how such injury or damage may be cause, whether by action of the elements or acts of negligence of Grantee or any other party, and that Grantee further agree to reimburse Grantor for any judgment against it arising from Grantee's use of the property.

Dated this \_\_\_\_\_ day of October, 2023.

### SOUTH DAKOTA BOARD OF REGENTS

By:	
By.	Tim Rave
	President
Certi	fication
meeting of th	e compared the foregoing with an action taken by the Board of Regents at a regular e Board on the day of October, 2023, and I hereby certify that the same is a and complete copy thereof and that the same has not been rescinded.
Dated	this day of October, 2023
SOUT	TH DAKOTA BOARD OF REGENTS
By:	
	Douglas Morrison
	Secretary

This document prepared by:
Office of School and Public Lands
(605)773-3303
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

## STATE OF SOUTH DAKOTA PERMANENT EASEMENT

THIS EASEMENT is made and entered by and between the State of South Dakota acting through its Governor and Commissioner of School and Public Lands on behalf of the South Dakota Board of Regents, 500 East Capitol, Pierre, South Dakota, 57501[the "Grantor"] and between Trojan Village, LLC, Lake County, South Dakota (the "Grantee").

WHEREAS Grantee is desirous of acquiring a permanent easement, as depicted in Exhibit A attached hereto, for the purpose of constructing and maintaining two storm sewer drainage pipes and related facilities above and below the surface of the proposed easement area upon land belonging to the Grantor, and the Grantor is desirous of cooperating with Grantee for said easement.

#### NOW THEREFORE THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. For and in consideration of the sum of One Dollar (\$1.00), the receipt of which is hereby acknowledged and other valuable consideration set forth in this Easement, the Grantor hereby grants and conveys to Grantee a permanent easement for the following described purposes: the right to erect, construct, reconstruct, replace, repair, use, maintain, and operate two storm sewer drainage pipes, together with all necessary and appurtenant incidental structures and appliances necessary for the operation and maintenance of such drainage pipes through, under, in, on and across the following legally described real estate within the County of Lake, State of South Dakota (the "Easement Area"):

A strip of land twenty-five (25) feet in width, consisting of twelve and one-half (12.5) feed on either side of the center of the storm sewer drainage pipe as constructed, and one hundred and fifty (150) feet in length, situated in Lots Two (2) and (3) of Block One (1) of DSU

Foundation Addition to the City of Madison, Lake County, South Dakota, and

A strip of land twenty-five (25) feet in width, consisting of twelve and one-half (12.5) feet on either side of the center of the storm sewer drainage pipe as constructed, and 42 feet in length, situated on Lot Three (3) of Block One (1) of DSU Foundation Addition to the City of Madison, Lake County, South Dakota,

as further shown in Exhibit A, a copy of which is attached hereto and incorporated into this agreement, the same as if written at length herein.

- 2. This Easement is granted subject to all existing rights of way and easements over and upon the property including the reservation by the Grantor to continue use of any existing utilities, access, or Grantor infrastructure. Existing utilities, access, or infrastructure may be relocated with Grantor permission at Grantee's expense.
- 3. Grantee agrees that any construction will not interfere unnecessarily with the Grantor's use of its adjoining property and will not endanger or injure any improvements thereon. Grantor reserves the right to utilize the Property for all purposes not inconsistent with the easement rights herein conveyed. Grantor or Grantee may enter upon the above described property for the purposes of effectuating the grant of and reserved rights in this easement.
- 4. The right of way, utilities, or other infrastructure shall be constructed in a good and workmanlike manner and all disturbed areas shall be restored to a finished grade.
- 5. Grantee further agrees, at no cost to the Grantor, to be responsible for the operation, repair, maintenance, replacement, or removal of the two storm sewer drainage pipes by Grantee and associated with the operation and maintenance of said drainage pipes.
- 6. Grantee further understands and agrees, that to the extent provided by South Dakota law it shall be liable for all damages caused by the construction, operation, maintenance, enlargement, upgrade, repair, alteration, removal or replacement of two storm sewer drainage pipes installed by Grantee and associated with the operation and maintenance of said drainage pipes and Grantee agrees to indemnify, defend, and hold the State harmless for the same. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to Grantee. The Grantee may require contractors and permittees to defend, indemnify, and hold the Grantee whole and harmless from costs, liabilities, maintenance, repair, operation or construction, or permitted facilities by such contractor or permittee in or near

the Easement. Nothing in this agreement shall be read to waive Grantor's sovereign immunity.

- 7. The property which is the subject of this Easement shall be kept free of all obstructions including but not limited to buildings, walls, fences, debris, trees, shrubs, or landscaping if such use is incompatible with the Easement.
- 8. Should the above-described real property granted by this Easement cease to be used for the purpose stated herein for two (2) consecutive years, this Easement reverts to the Grantor or its successor or assigns.
- 9. Grantor has and retains the right to lease, sell or otherwise convey the Easement Area, or any part thereof, subject to the terms of this Easement, provided, however, that this Easement shall remain in full force and effect until the expiration of the term hereof notwithstanding such lease, sale or conveyance. This Easement is also subject to a reservation of rights relating to deposits of coal, ores, metal and other minerals, asphaltum, oil, gas and like substances provided South Dakota Constitution Art. VIII, §19, South Dakota Codified Laws 5-7-3 to 5-7-6, inclusive and South Dakota Codified Laws 5-2-12, and in any law of the State of South Dakota reserving any rights of any kind in said State or any of its departments, institutions, subdivisions, funds or accounts.
- 10. This agreement and attachments shall constitute the entire agreement between Grantor and Grantee. This agreement supersedes any other written or oral agreements between Grantor and Grantee. This agreement can only be modified in writing and signed by the Grantor and Grantee or their respective heirs, representatives, executors, administrators, successors, and assigns.
- 11. This easement shall be binding upon the heirs, executors, administrators, assigns, and successors in interest of the parties hereto, and the failure of Grantee or any person or entity succeeding to its interest to comply with the conditions stated herein shall cause the easement to terminate and to revert to Grantor or any person or entity succeeding to its interest.
- 12. This Easement is governed by and shall be construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota

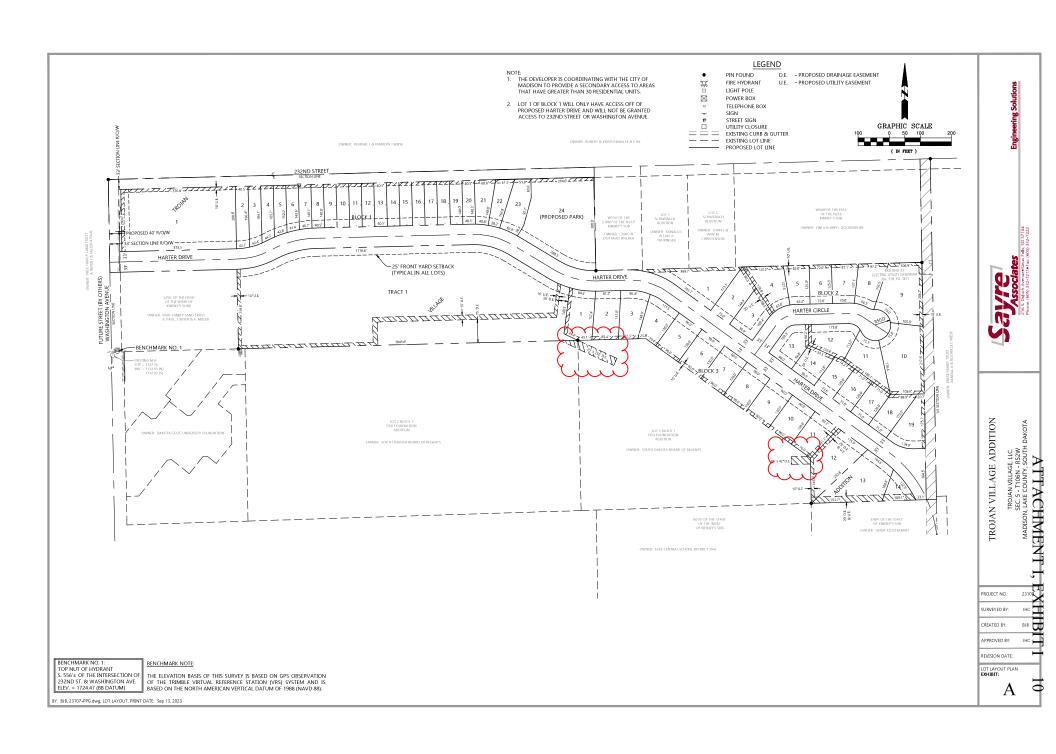
IN WITNESS WHEREOF, the STATE OF SOUTH DAKOTA has caused this Instrument to be executed in the name of the State, by the Governor and

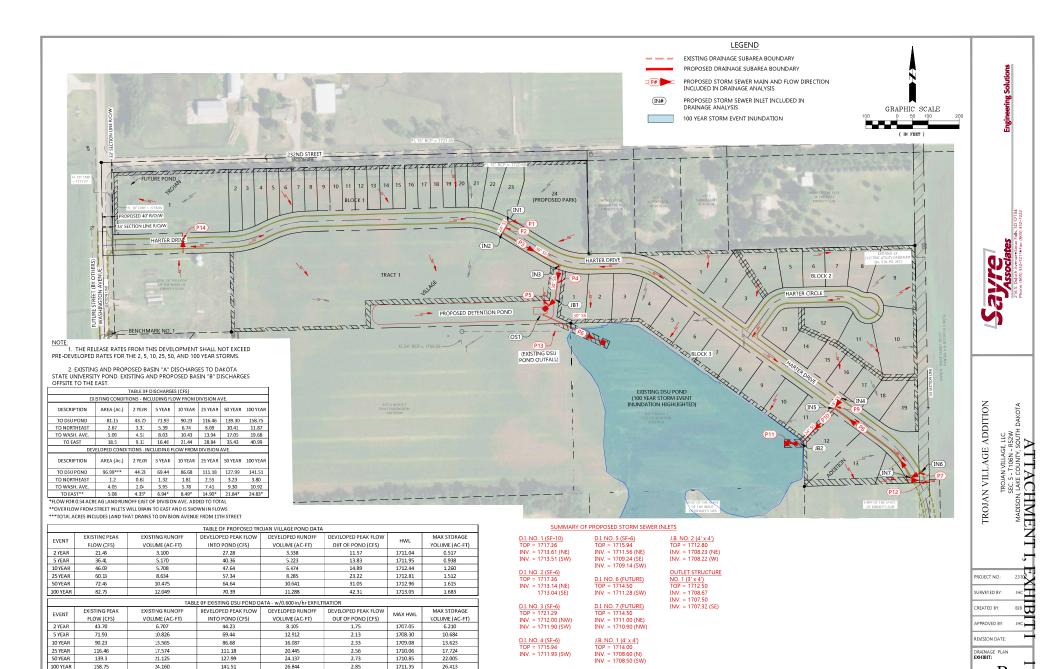
attested to by the Commissioner of Scho has set its hand and seal this day	
	STATE OF SOUTH DAKOTA
	BY:
	Kristi Noem Governor
A (TVDT) CVD	
ATTEST:	
Brock L Greenfield Commissioner of School and Public Land	ls
	TROJAN VILLAGE, LLC.
	BY:
ATTEST:	
	-
ACKNOWLE	EDGMENTS
STATE OF SOUTH DAKOTA ) ) ss	
COUNTY OF HUGHES )	
On this day of Notary Public within aforesaid County at Noem, Governor, known to me to be the the within and forgoing instrument for the acknowledged to me that he executed the	person described herein who executed ne purposes therein contained and

Notary Seal	Notary Public
	Commission Expires
STATE OF SOUTH DAKOTA ) ) ss COUNTY OF HUGHES )	
On this day of, 2023. Public within aforesaid County and State, Greenfield, Commissioner of South Dakota me to be the person described herein who instrument for the purposes therein contain executed the same.	personally appeared Brock L.  School and Public Lands, known to executed the within and forgoing
Notary Seal	Notary Public
	Commission Expires
STATE OF SOUTH DAKOTA ) ) ss COUNTY OF )	
On this day of undersigned officer, personally appeared _ acknowledged him/herself to be the and that s/he, as, be the foregoing instrument for the purposes name of Trojan Village LLC, as	, who of Trojan Village, LLC, eing authorized so to do, executed therein contained, by signing the
Notary Seal	Notary Public

### Commission Expires

STATE OF SOUTH DAKOTA	)
	) ss
COUNTY OF	j
<del>_</del>	, 2023, before me the undersigned Notary ty and State, personally appeared, known to me to be the person described
	in and forgoing instrument for the purposes wledged to me that he executed the same.
	Notary Public
Notary Seal	
	Commission Expires





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EVISION DATE:
RAINAGE TABLES KHIBIT:

	TABLE OF EXISTING DRAINAGESUB-AREA PEAK RUNOFF											
	* = DESIGN DATA FROM STOCKWELL DESIGN REPORT											
LABEL	AREA (Ac.)	CN	Tc (Min)	2 YEAR	5 YEAR	10YEAR	25 YEAR	50 YEAR	100 YEAR			
EA1*	18.90	79.74	35	1359	22.86	29.02	38.04	45.85	52.60			
EB1	24.78	79.13	30	1895	32.31	41.11	54.04	65.41	74.92			
EB2*	14.22	83.50	15	20.48	32.03	39.52	50.21	59.43	67.22			
EB3*	23.25	81.00	61	1234	20.43	25.85	33.53	40.32	46.11			
EC1	2.67	81.00	15	3.32	5.39	6.75	8.72	10.43	11.87			
ED1	2.23	81.00	15	2.18	4.51	5.65	7.30	8.73	9.93			
ED2	8.72	76.50	40	4.53	8.17	10.63	14.31	17.56	20.31			
EE1	7.55	75.60	40	3.45	6.71	8.80	11.93	14.68	17.08			
EF1	5.09	76.00	15	4.53	8.05	10.44	13.96	17.08	19.73			

	TAB	LE OF PRO	POSED DRA	INAGE SUB	-AREA PEA	K RUNOFF			
		= DESIGNI	DATA FROM	A STOCKWE	LLDESIGN	REPOR"			
LABEL	AREA (Ac.)	CN	Tc(Min)	2 YEAR	5 YEAR	10 YEAR	25 YEAR	50 YEAR	100 YEAR
PA1*	18.90	79.74	35	13.59	22.86	29.01	38.04	45.85	52.60
PB1	9.11	75.51	15	7.84	14.05	18.30	24.53	30.09	34.82
PB2	0.92	95.04	15	2.25	3.05	3.54	4.23	4.81	5.31
PB3	0.32	80.20	15	0.38	0.62	0.78	1.02	1.22	1.39
PB4	7.44	92.00	15	16.21	22.74	26.77	32.46	37.27	41.28
PB5	5.27	78.01	15	5.41	9.25	11.82	15.56	18.85	21.64
PB6	1.50	80.20	15	1.78	2.93	3.69	4.78	5.75	6.56
PB7	2.92	72.00	15	1.88	3.68	4.93	6.82	8.51	9.97
PB8*	14.22	83.50	15	20.48	32.03	39.51	50.21	59.43	67.22
PB9*	23.25	81.00	61	12.34	20.43	25.85	33.52	40.32	46.11
PB10	0.18	91.80	15	0.40	0.56	0.66	0.79	0.91	1.00
PB11	0.25	98.00	15	0.66	0.87	1.00	1.13	1.34	1.47
PB12	5.75	75.00	40	2.65	4.94	6.53	8.87	10.96	12.78
PB13	6.95	77.30	40	3.85	6.81	8.80	11.78	14.37	16.62
PC1	1.20	70.00	15	0.63	1.33	1.81	2.55	3.23	3.80
PD1	0.35	70.00	15	0.19	0.39	0.53	0.75	0.95	1.12
FD2	2.87	81.00	15	3.57	5.79	7.25	9.37	11.21	12.75
FD3	1.27	73.30	15	0.92	1.73	2.30	3.14	3.89	4.54
PD4	0.59	81.00	15	0.73	1.19	1.49	1.92	2.30	2.62
PF1	3.25	71.32	15	1.96	3.92	5.29	7.35	9.22	10.83
PF2	0.80	69.00	15	0.38	0.82	1.14	1.63	2.07	2.46

		TAE	BLE OF STORM SE	WER PIPE	DATA					
	5 YEAR - 24 HOUR PERFORMANCE									
LABEL	SIZE / TYPE	LENGTH (Ft	SLOPE (Ft/Ft)	"N"	Qp (cb)	FULL FLOWCA PACITY (cfs)				
P1	24" RCP	24	0.0200	0.13	8.69	31.99				
P2	24" RCP	39	0.0100	0.13	16.34	22.62				
Р3	30" RCP	207	0.0050	0.13	18.70	29.00				
P4	30" RCP	110	0.0300	0.13	19.20	71.04				
P5	30" RCP	40	0.0100	0.13	19.18	41.02				
P6	30" RCP	210	0.0053	0.13	13.83	19.86				
P7	18" RCP	39	0.0075	0.13	6.75	9.10				
P8	24" RCP	332	0.0053	0.13	11.72	14.27				
P9	18" RCP	39	0.0100	0.13	9.24	:0.50				
P10	24" RCP	154	0.0060	0.13	16.06	:7.52				
P11	24" RCP	35	0.0060	0.13	16.06	:7.52				
P12	24" ARCH RCP	88	0.0030	0.13	4.47	:2.55				
P13	12" RCP	350	0.0020	0.13	2.12	1.38				
P14	12" RCP	60	0.0040	0.13	0.14	1.95				
	•	100 YEAR - 24 HOUR PERIORMANCE								
LABEL	SIZE / TYPE	LENGTH (Ft	SLOPE (Ft/Ft)	"N"	Qp (cb)	FULL FLOWCA PACITY (cfs)				
P12	24" ARCH RCP	88	0.0030	0.13	4.47	:2.55				
P13	12" RCP	350	0.0020	0.13	2.84	1.38				

DESIGN DATA	FROM STOCKWELL ENGINE	ERS DESIGN REPORT
DEPTH (FT.)	AREA (SQ. FT.)	CUMULATIVE VOLUME (CU. FT.)
0 (1705)	118,400	0
1	131,490	124,945
2	144,770	263,075
3	158,050	414,485
4	171,755	579,387
5	185,885	758,207
6	203,880	953,090
7	290,170	1,200,115
8 (1713)	443,662	1,567,031

	5 YEAR - 24 HOUR PERFORMANCE											
LABEL	TYPE	Opeak (cfs)	BYPASS (cfs)	SPREAD (Ft)	DEPTH (Ft)							
IN1	SF 10	14.02	NA NA	NA.	29.24	0.84						
IN2	SF 6	3.05	NA	NA	13.34	0.52						
IN3	SF 6	0.62	0.62	0.00	4.73	0.18						
IN4	SF 6	9.25	NA	NA.	29.77	0.85						
IN5	SF 6	2.93	NA	NA.	12.99	0.51						
IN6	SF 6	5.19	NA	NA	23.16	0.71						
IN7	SF 6	7.61	NA	NA.	19.04	0.63						

	TA	BLE OF PEA	K DISCHAF	RGES (CFS)						
EXISTING CONDITIONS - INCLUDING FLOW FROM DIVISION AVE.										
DESCRIPTION	#REA (Ac.)	2 YEAR	5 YEAR	10 YEAR	25 YEAR	50 YEAR	100 YEAR			
TO DSUPOND	81.15	43.70	71.93	90.23	116.46	139.30	158.75			
TO NORFHEAST	2.67	3.31	5.39	6.74	8.69	10.41	11.87			
TO WASH, AVE.	5.09	4.53	8.03	10.43	13.94	17.05	19.68			
TO FAST	18.5	9.12	16.46	21.44	28.84	35.43	40.99			
DEV	ELOPED CONDI	TIONS - IN	CLUDING F	LOW FROM	DIVISION .	AVE.				
DESCRIPTION	AREA (Ac.)	2 YEAR	5 YEAR	10 YEAR	25 YEAR	50 YEAR	100 YEAR			
TO DSUPOND	36.99***	44.23	69.44	86.68	111.18	127.99	141.51			
TO NORTHEAST	1.2	0.63	1.32	1.81	2.55	3.23	3.80			
TO WASH, AVE.	4.05	2.04	3.95	5.78	7.41	9.30	10.92			
TO EAST**	5.08	4.35*	6.94*	8.49*	14.90*	21.84*	24.83*			

\*FLOW FOLO 59 ACRE AG LAND RUNOFF EAST OF UNISION AVE ADDED TO TOTAL

\*\*OVERFLOW FROM STREET INLETS WILL DRAIN TO EAST AND IS SHOWN IN FLOWS

\*\*\*TOTAL ACRES INCLUDES LAND THAT DRAINS TO D VISION AVENUE FROM 11TH STREET

TABLE OF DISCHARGES VOLUMES (AC-FT) TO THE EAST OF DIVISION								
EXISTING BASINS = EC1, ED2, EE1 PROPOSED BASINS = PD1, PD2, PD3, PB10, PB11, PB:2, PB13								
	AREA (Ac.)	2 YEAR	5 YEAR	10 YEAR	25 YEAR	50 YEAR	100 YEAR	
EXISTING	18.50	1.20	2.04	2.61	4.15	4.22	4.87	
BASIN EE1ONLY	7.55	0.46	0.80	1.03	1.37	1.68	1.94	
PROPOSED .	17.63	0.32	0.53	0.68	1.07	1.50	1.87	

TABLE OF PROPCSED TROJAN VILLAGE POND DATA											
EVENT	EXISTING PEAK	EXISTING RUNOFF	DEVELOPED PEAK FLOW	DEVELOPED RUNOFF	DEVELOPED PEAK FLOW	HWL	MAX STORAGE				
	FLOW (CFS)	VOLUME (AC-FT)	INTO POND (CFS)	VOLUME (AC-FT)	OUT OF POND (CFS)		VOLUME (AC-FT)				
2 YEAF	21.43	3.100	27.28	3.338	11.57	1711.04	0.517				
5 YEAF	36.41	5.170	40.36	5.223	13.83	1711.95	0.938				
10YEAR	46.09	5.708	47.64	6.474	14.89	1712.44	1.260				
25YEA≹	60.13	8.634	57.34	8.285	23.22	1712.81	1.512				
50YEA≹	72.45	10.475	64.64	10.641	31.05	1712.96	1.615				
100 YEAR	82.76	12.049	70.39	11.288	42.31	1713.05	1.683				

TABLE OF EXISTING DSU POND DATA - w/Q.600 in/hr EXFILTRATION											
EVENT	EXISTING PEAK	EXISTING RUNOFF	DEVELOPED PEAK FLOW	DEVELOPED RUNOFF	DEVELOPED PEAK FLOW	MAX HWL	MAX STORAGE				
	FLOW (CFS)	VOLUME (AC-FT)	INTO POND (CFS)	VOLUME (AC-FT)	OUT OF POND (CFS)		VOLUME (AC-FT)				
2 YEAF	43.70	6.707	44.23	8.105	1.75	1707.05	6.210				
5 YEAF	71.93	10.826	69.44	12.912	2.13	1708.30	10.684				
10YEAR	90.23	13.565	86.68	16.087	2.33	1709.08	13.623				
25YEAR	116.46	17.574	111.18	20.445	2.56	1710.06	17.724				
50YEAR	139.3	21.125	:27.99	24.137	2.73	1710.85	22.005				
100 YEAR	158.75	24.160	141.51	26.844	2.85	1711.35	26.413				