AGENDA

CITY COUNCIL - SPECIAL MEETING (WORKSHOP)
CITY OF BANNING, CALIFORNIA

August 27, 2024
4:00 p.m.
In Chambers

Council Chambers
99 E. Ramsey Street
Banning, CA 92220

The following information comprises the agenda for the regular meeting of the Banning City Council, a joint meeting of the City Council and Banning Utility Authority, and the Banning City Council sitting in its capacity as the Banning Successor Agency Board.

Per City Council Resolution 2016-44, matters taken up by the Council before 10 p.m. may be concluded, but no new matters shall be taken up except upon a unanimous vote of the council members present and voting. Such an extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

1. CALL TO ORDER

2. PUBLIC COMMENTS - ***Agenda Items Only***

3. WORKSHOP

3.1 Overview and Presentation of a Proposed Amendment to the Mission Heights Specific Plan
Recommendation: Receive and file overview and presentation.

4. ADJOURNMENT

AFFIDAVIT • DECLARACIÓN JURADA

IT IS HEREBY CERTIFIED under the laws of the State of California that the above agenda was posted on the City's website (www.banningca.gov) as well as the Bulletin Board at Banning City Hall, located at 99 E Ramsey Street, Banning, CA 92220, at least 24 hours in advance of the meeting.

Caroline Patton, Administrative City Clerk
Secretario adjunto de la ciudad

PUBLIC NOTICE • NOTICIA PÚBLICA

Meeting Agendas and Notices

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Public Comment

Agenda Items

Any member of the public may address this meeting of the City Council on any item appearing on the agenda. A five-minute limitation shall apply to each member of the public and no member of the public shall be permitted to share their time with any other person.

Non-Agenda Items

Any member of the public may address this meeting of the City Council on any item which does not appear on the regular meeting agenda but is of interest to the general public and is an item upon which the City Council may act. A three-minute limitation shall apply to each member of the public and no member shall be permitted to share their time with any other person. No action shall be taken, nor discussion held by the City Council, on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of §54954.2 of the Government Code.

Special Assistance/Accessibility Requests

In compliance with the Americans with Disabilities Act, any member of the public may request that the agenda and agenda packet be mailed to them. If you need special assistance to participate in this meeting (such as translation services), please contact the City Clerk's Office. Advanced notification of at least 48 hours prior to the meeting will allow the city to make arrangements to ensure your accessibility.

¿Necesita servicios de traducción para participar? Contacto Oficina del Secretario de la Ciudad.

CONTACT • CONTACTO

City Clerk's Office | 951-922-3102 | CityClerks@banningca.gov
99 East Ramsey Street, Banning, California 92220

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Emery Papp, Senior Planner**
MEETING DATE:	**August 27, 2024**
SUBJECT:	**Overview and Presentation of a Proposed Amendment to the Mission Heights Specific Plan**

RECOMMENDATION:

Receive and file overview and presentation.

BACKGROUND:

On July 11, 1995, the City Council adopted Ordinance 1178, a Pre-Annexation and Development Agreement with Loma Linda University (Property Owner) for a master planned residential development constructing up to 944 residential units, a 10-acre school site, a 1-acre police/fire station, 7.5 acres of park land, and an 18-hole golf course within a project area of approximately 595 acres. The project was approved with a twenty-five (25) year life span, which was set to expire in August 2020.

On September 27, 2005, the City Council adopted:

- Resolution 2005-106, adopting the Final Environmental Impact Report for the Project, the Statement of Overriding Consideration, and a Mitigation Monitoring and Reporting Program.
- Resolution 2005-107, approving the Loma Linda Specific Plan to develop 944 residential units, a 10-acre school site, a 1-acre police/fire station, 7.5 acres of park land, and an 18-hole golf course.
- Resolution 2005-105, changing the General Plan Land Use designation on 600 acres of land from Very Low Density Residential and Rural Residential to Specific Plan.
- Resolution 2005-108, approving the Pre-Annexation and Development Agreement for the Project.

On October 11, 2005, the City Council adopted Ordinance 1330 which changed the zoning designation on 600 acres of land within the Specific Plan boundary from Residential Agriculture to Specific Plan. On this date, the City Council also adopted Ordinance 1331, which amended the Pre-Annexation and Development Agreement.

Ordinance No. 1353, was introduced at a regular City Council Meeting held on October 24, 2006, and was adopted by the City Council on November 14, 2006.

The owners of the land are currently proposing an amendment to the Specific Plan with a new environmental impact report for the Loma Linda Specific Plan Area, which is to be rebranded as Mission Heights.

The proposed new Land Use Plan would allow for a total of 2,463 new residential units on 768 gross acres, 310 net developable acres with 458 acres dedicated for open space. The Applicant is in the early phases of project development and the overall concept is subject to change as they continue to engage

in community outreach, prepare technical studies, and refine their plan accordingly.

JUSTIFICATION:

This is an Applicant/Owner initiated Specific Plan Amendment. The purpose of this workshop is to present the updated concept for the proposed development of the property.

FISCAL IMPACT:

To Be Determined

ALTERNATIVES:

None. Receive and file only.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Mission Heights Final Presentation ZONDA_4.8.24_NO VIDEO - City Version 6-4-2024 v2.pdf
2. Ordinance No. 1178.pdf
3. ORDINANCE NO. 1330.pdf
4. Ordinance No. 1331.pdf
5. Ordinance No. 1353 SP Approval.pdf
6. Loma Linda SP Staff Report and Resolutions 9-27-2005.pdf











MISSION HEIGHTS

Life elevated.

Where luxury living meets health and harmony with unrivaled views.



TEAM OBJECTIVE

Team of Experts

History of the Land

Land Planning & Study

Community Vision

Next Steps

TEAM OF EXPERTS



Ocie Vest
Southridge Park
--
Community & Project Management



Mark Rogers
TRG Land
--
Land Planning and Entitlement



Mollie Carmichael
Zonda
--
Market and Community Strategy



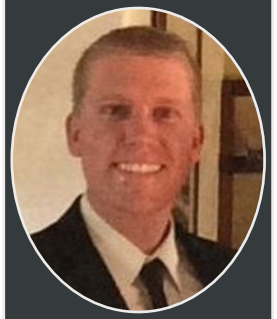
Mark Anderson
Proactive Engineering
--
Civil Engineer



Peter Carlson
Carlson
SLS
--
Environmental Permitting



Terri Wright
NMG Geotechnical
--
Geology and Soils



Noah Stamm
Dudek
--
Fire Planning



Sandipan Bhattacharjee
Translutions
Transportation Solutions



TEAM OBJECTIVE

Team of Experts

History of the Land

Land Planning & Study

Community Vision

Next Steps

HISTORY OF THE LAND

- **The history of the land goes back to 1774** when the Mexican and Spanish expedition reached the area.
- **By 1824, the San Gabriel Mission's Fathers established a mission** at the highest point in the pass to ranch, farm and raise cattle. They named the area Rancho San Gorgonio.
- **The town was born from 1930 and 1940** when the Metropolitan water district built and aqueduct system.
- **The gold rush moved south by the early 1900's**. **Gilman's Ranch** (at the foot of the property) served as the stagecoach lines heading to the gold boomtowns.
- The property was **gifted to the University about 30 years ago** and has been used as a horse grazing operation ever since











NOTE: The name, "MISSION HEIGHTS", celebrates the land's history.



TEAM OBJECTIVE

Team of Experts

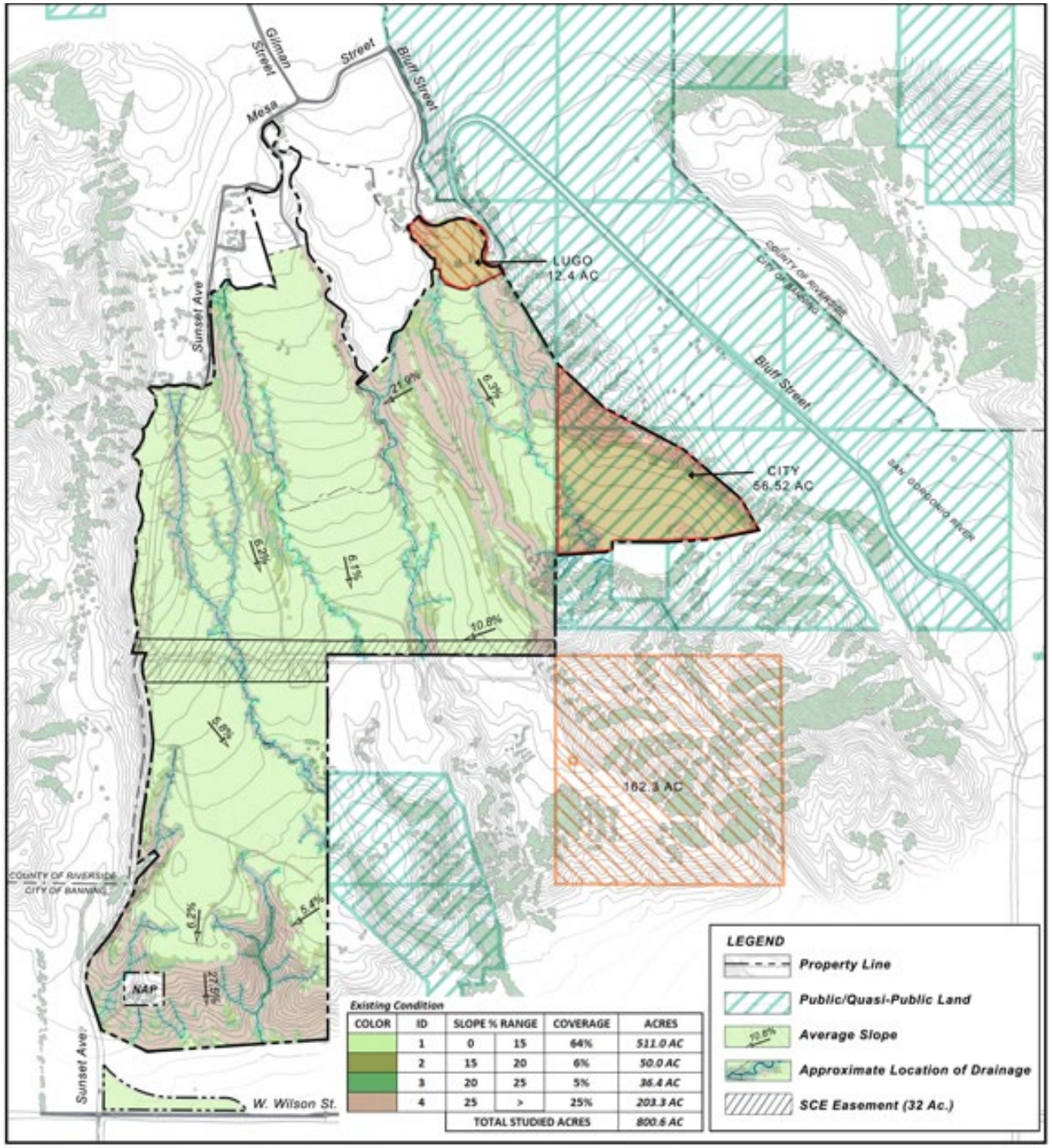
History of the Land

Land Planning & Study

Community Vision

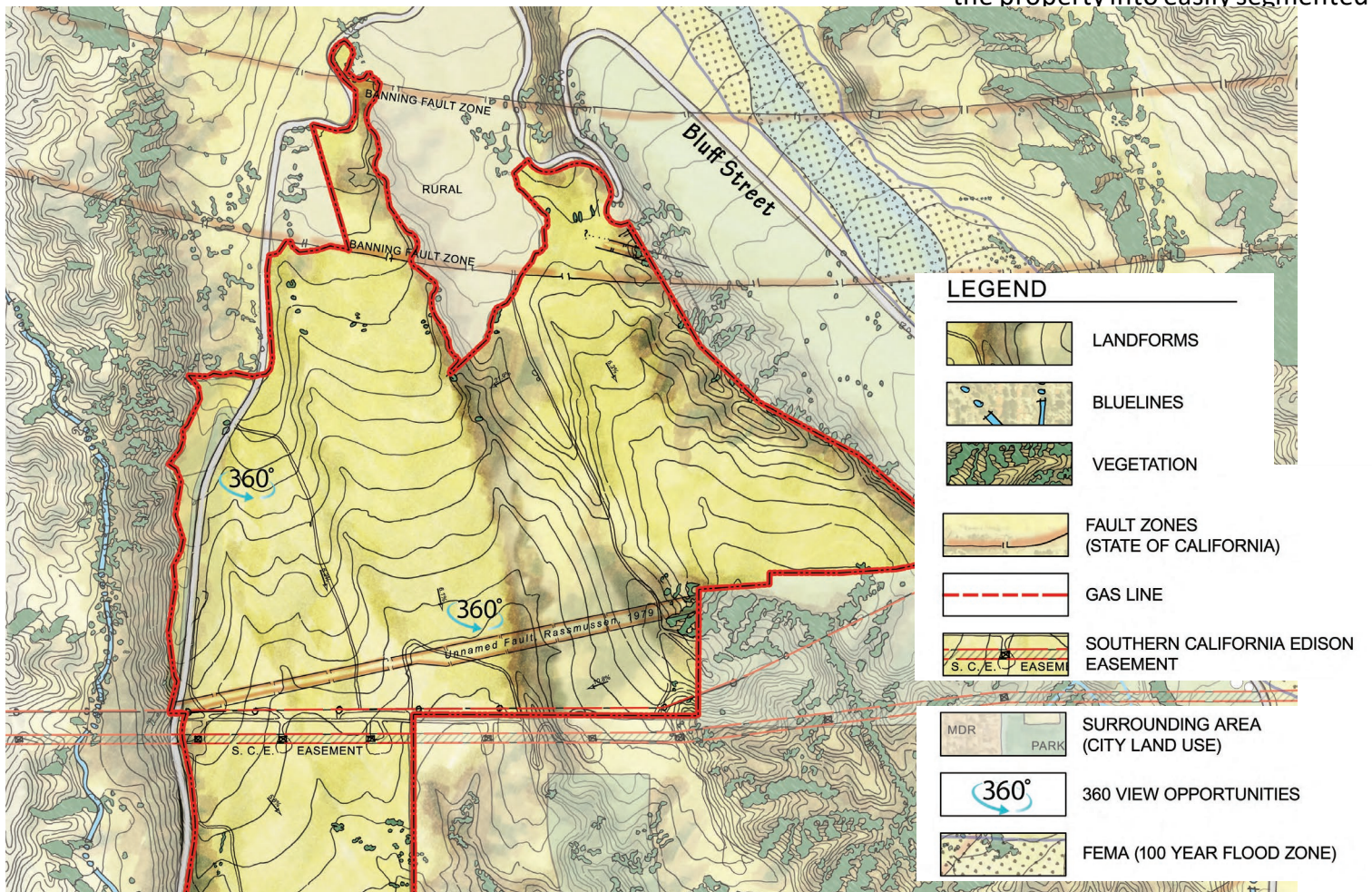
Next Steps

AVERAGE SLOPE/ PUBLIC & QUASI-PUBLIC LAND

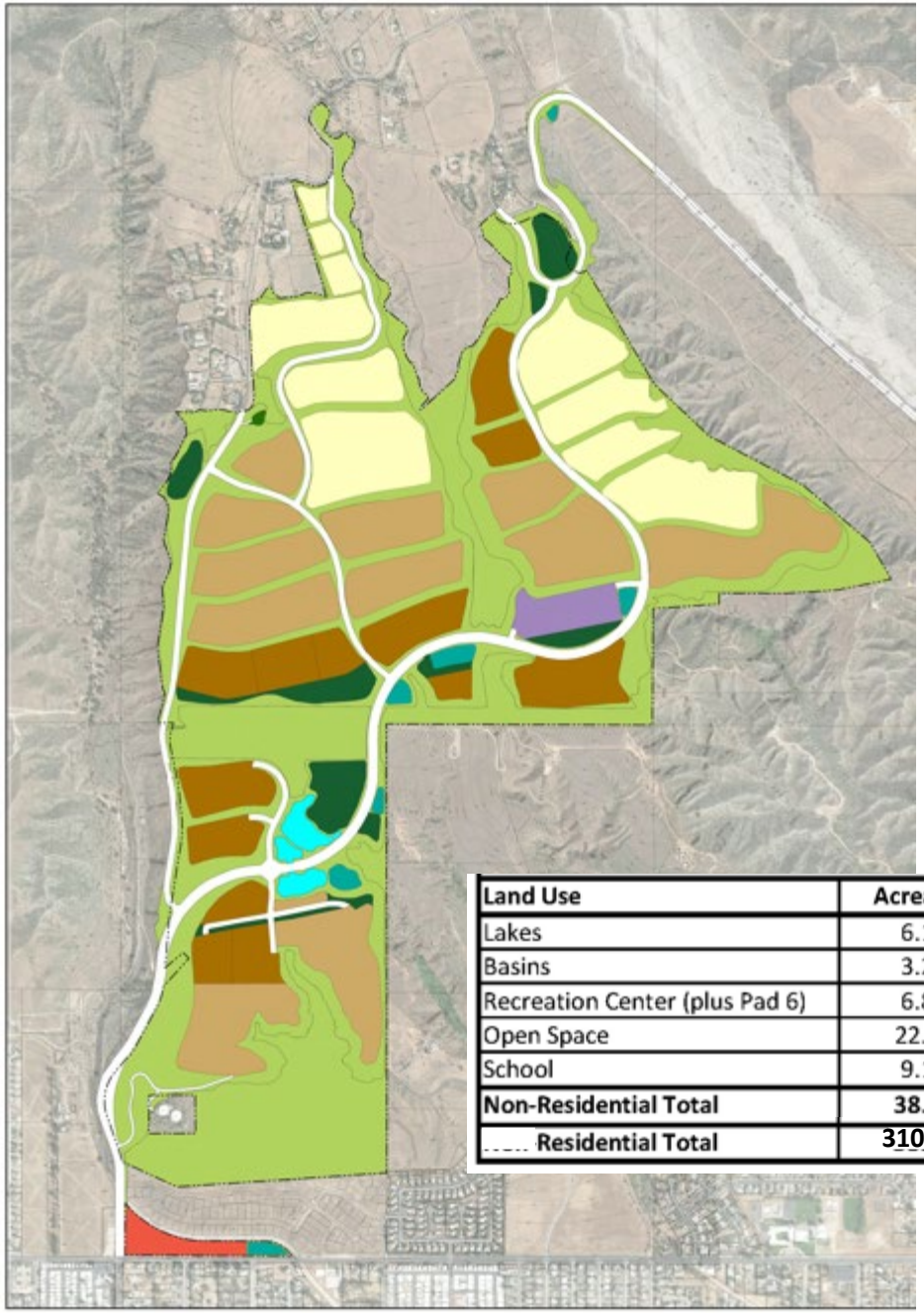


LANDFORM & CONSTRAINTS

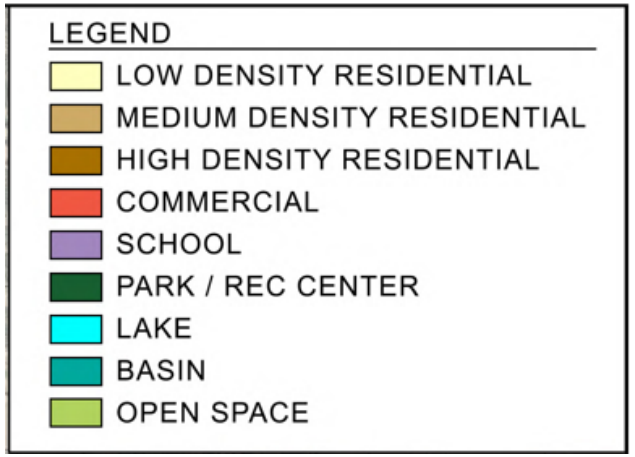
Grazing and farming have left the site without significant vegetation, uncomplicated biology. Stream bed areas divide the property into easily segmented parcels. Transmission



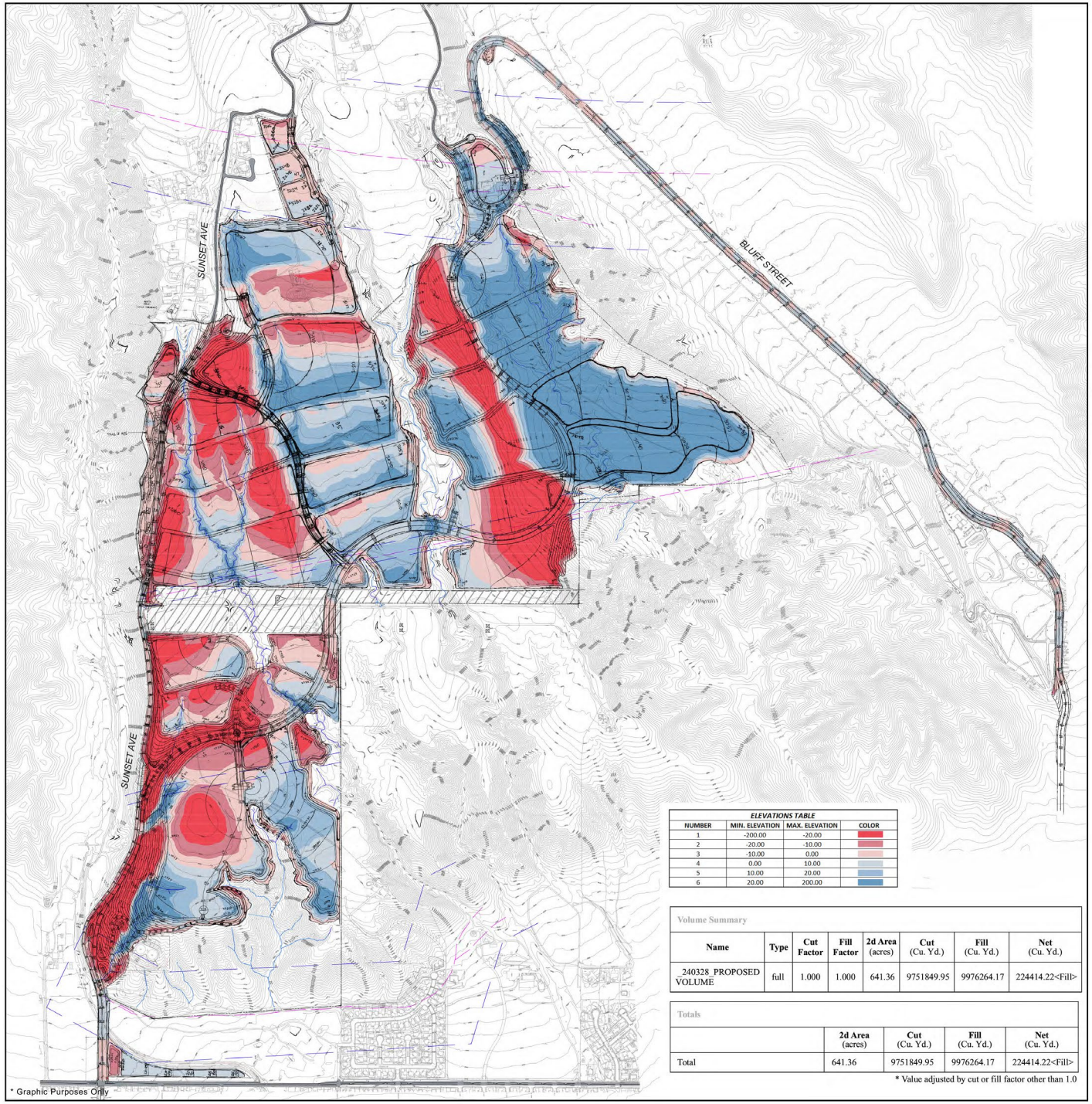
LAND USE



Land Use	Acreage
Lakes	6.1
Basins	3.2
Recreation Center (plus Pad 6)	6.8
Open Space	22.7
School	9.1
Non-Residential Total	**38.8**
Residential Total	**310.1**



GRADING



ELEVATIONS TABLE

NUMBER	MIN. ELEVATION	MAX. ELEVATION	COLOR
1	-200.00	-20.00	
2	-20.00	-10.00	
3	-10.00	0.00	
4	0.00	10.00	
5	10.00	20.00	
6	20.00	200.00	

Volume Summary

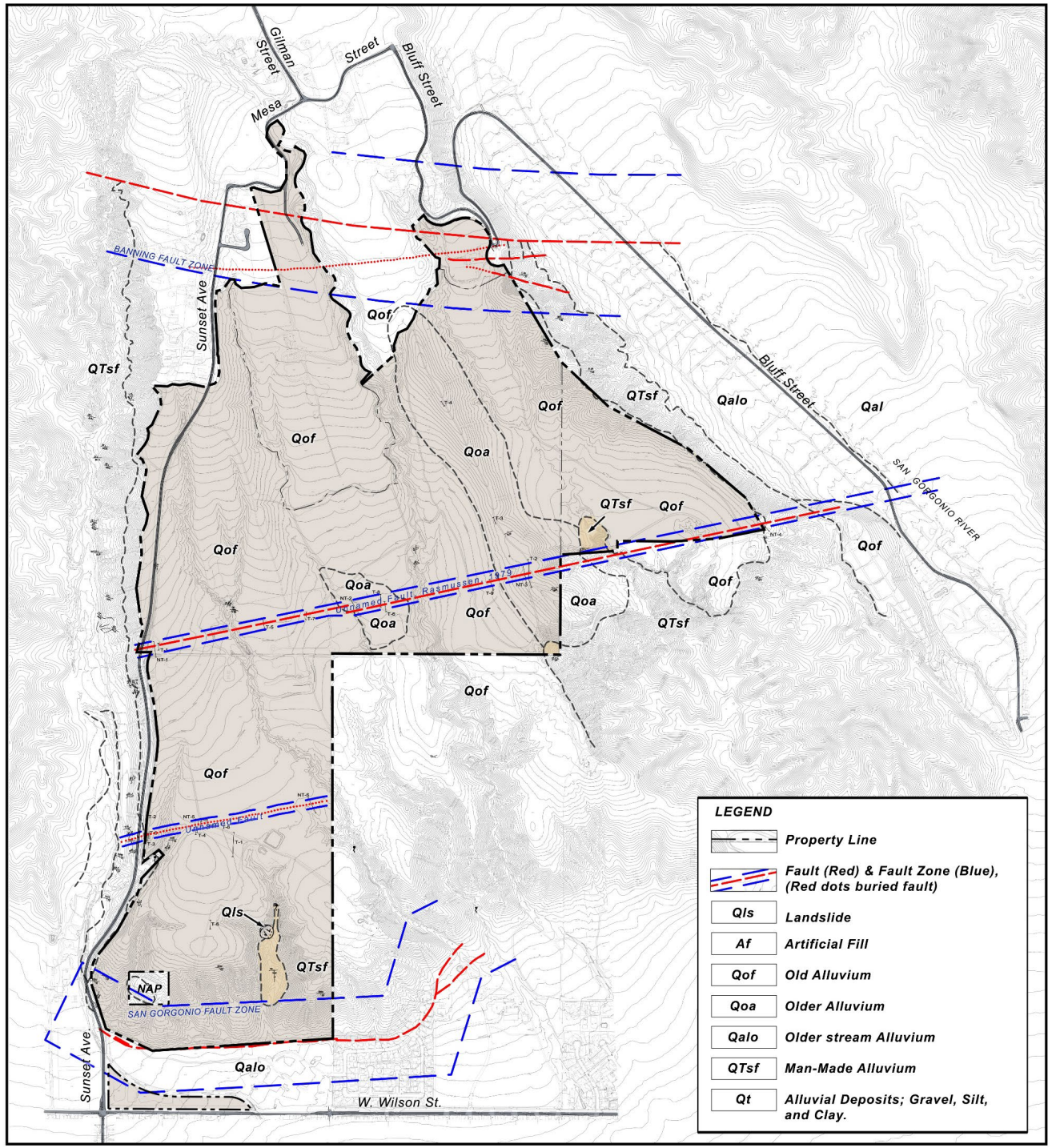
Name	Type	Cut Factor	Fill Factor	2d Area (acres)	Cut (Cu. Yd.)	Fill (Cu. Yd.)	Net (Cu. Yd.)
240328_PROPOSED VOLUME	full	1.000	1.000	641.36	9751849.95	9976264.17	224414.22<Fill>

Totals

	2d Area (acres)	Cut (Cu. Yd.)	Fill (Cu. Yd.)	Net (Cu. Yd.)
Total	641.36	9751849.95	9976264.17	224414.22<Fill>

* Value adjusted by cut or fill factor other than 1.0

GEOLOGY

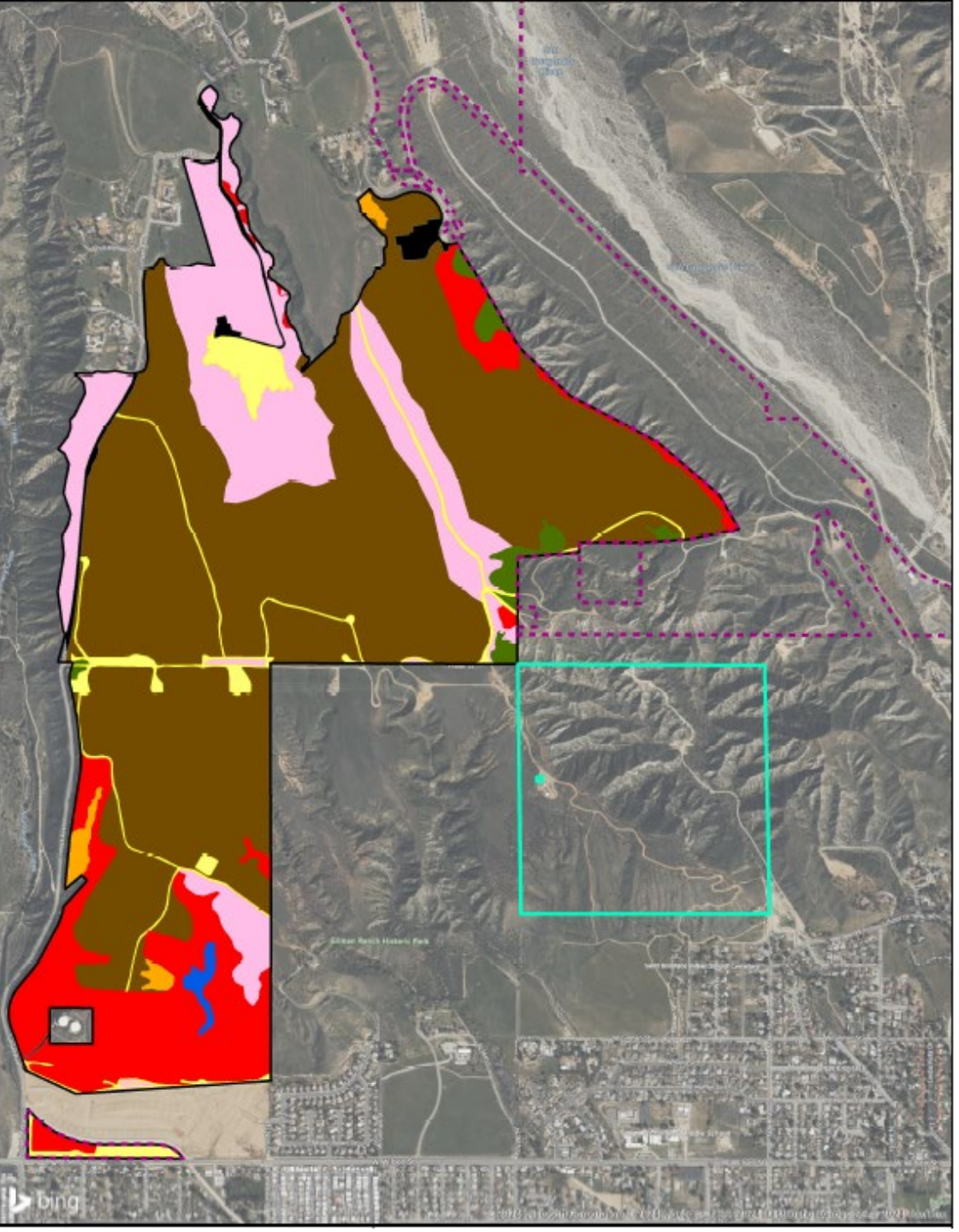

Gilman Street
Street
Bluff Street
Mesa
BANNING FAULT ZONE
Sunset Ave
Bluff Street
SAN GORGONIO RIVER
Unnamed Fault Rasmussen, 1979
NAP
SAN GORGONIO FAULT ZONE
Sunset Ave.
W. Wilson St.
QTsf
Qof
Qoa
Qalo
Qal
Qls
LEGEND
Property Line
Fault (Red) & Fault Zone (Blue), (Red dots buried fault)
Qls Landslide
Af Artificial Fill
Qof Old Alluvium
Qoa Older Alluvium
Qalo Older stream Alluvium
QTsf Man-Made Alluvium
Qt Alluvial Deposits; Gravel, Silt, and Clay.

BIOLOGY/ REGULATORY

The project site generally, consists of a series of mesas separated by steeply incised drainage courses running north to south with several smaller tributaries. The mesas have been heavily grazed and are void of significant vegetation, with ruderal and non-native species present.

Table 1. Vegetation Communities on the Project Site

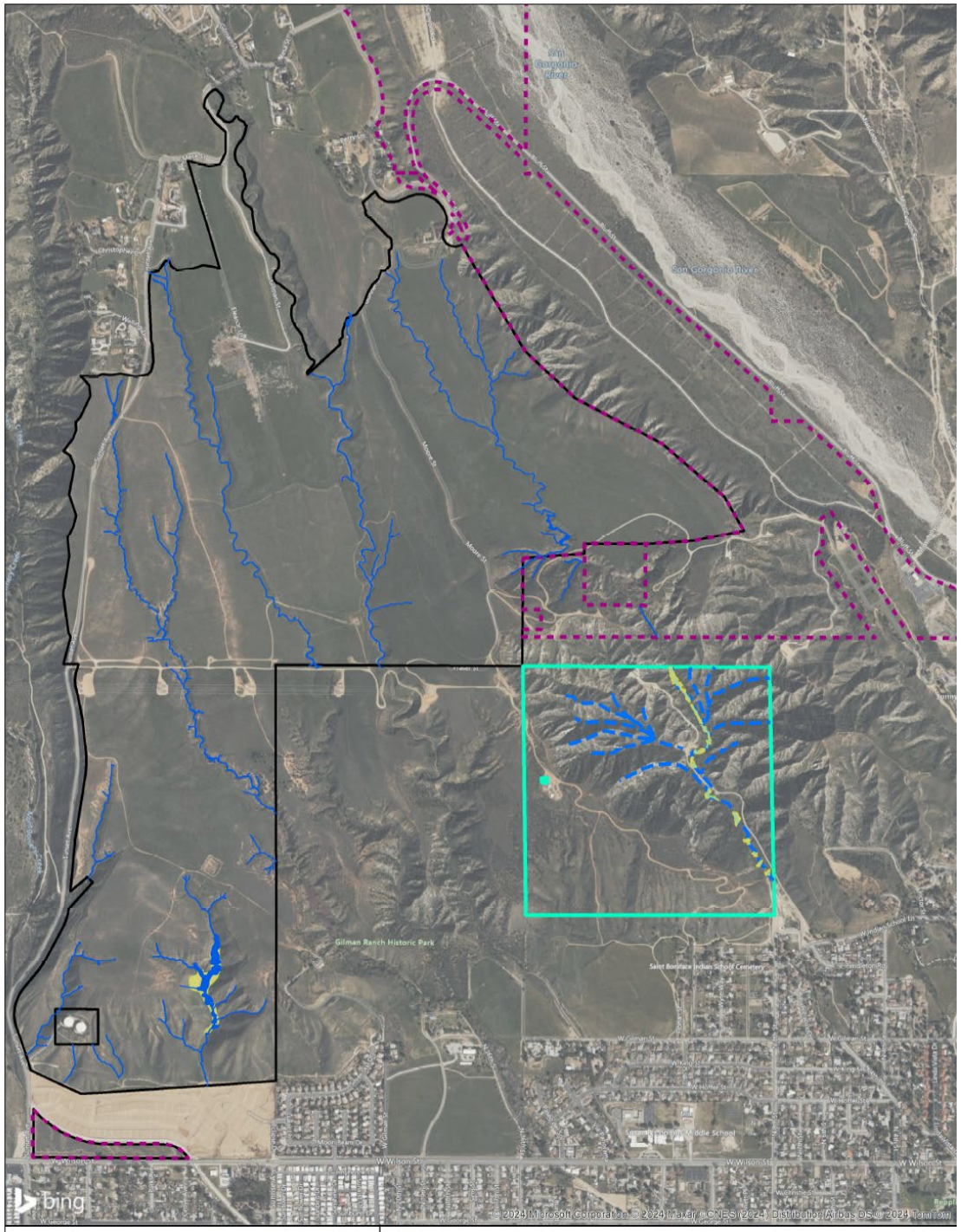
Vegetation Community	Project Site Acreage (acres)
Chaparral	12.93
Coastal Sage Scrub	106.75
Disturbed Coastal Sage Scrub	6.22
Riparian Woodland	2.59
Non-Native Grasslands	129.71
Grazed Land/Ruderal	469.43
Disturbed	30.22
Developed	9.86
TOTAL	767.71



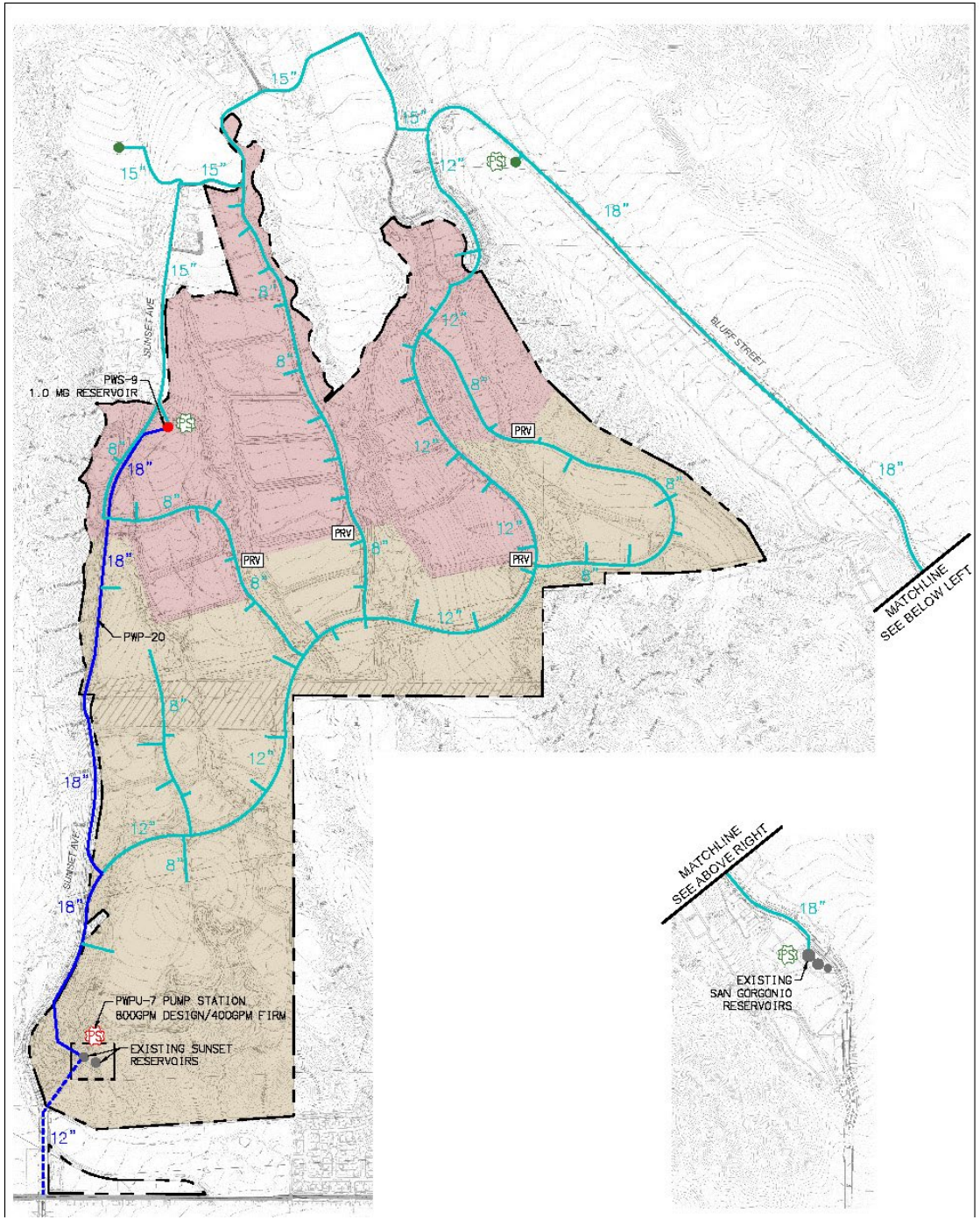
JURISDICTIONAL FEATURES

The drainages generally are unvegetated and consists primarily of non-native grasses, however some of the drainages contain limited vegetation.

Recent Supreme Court ruling benefits the project from processing with the ACOE. Wildlife corridors will be part of the plan construct. Limited overall significant bio issues.



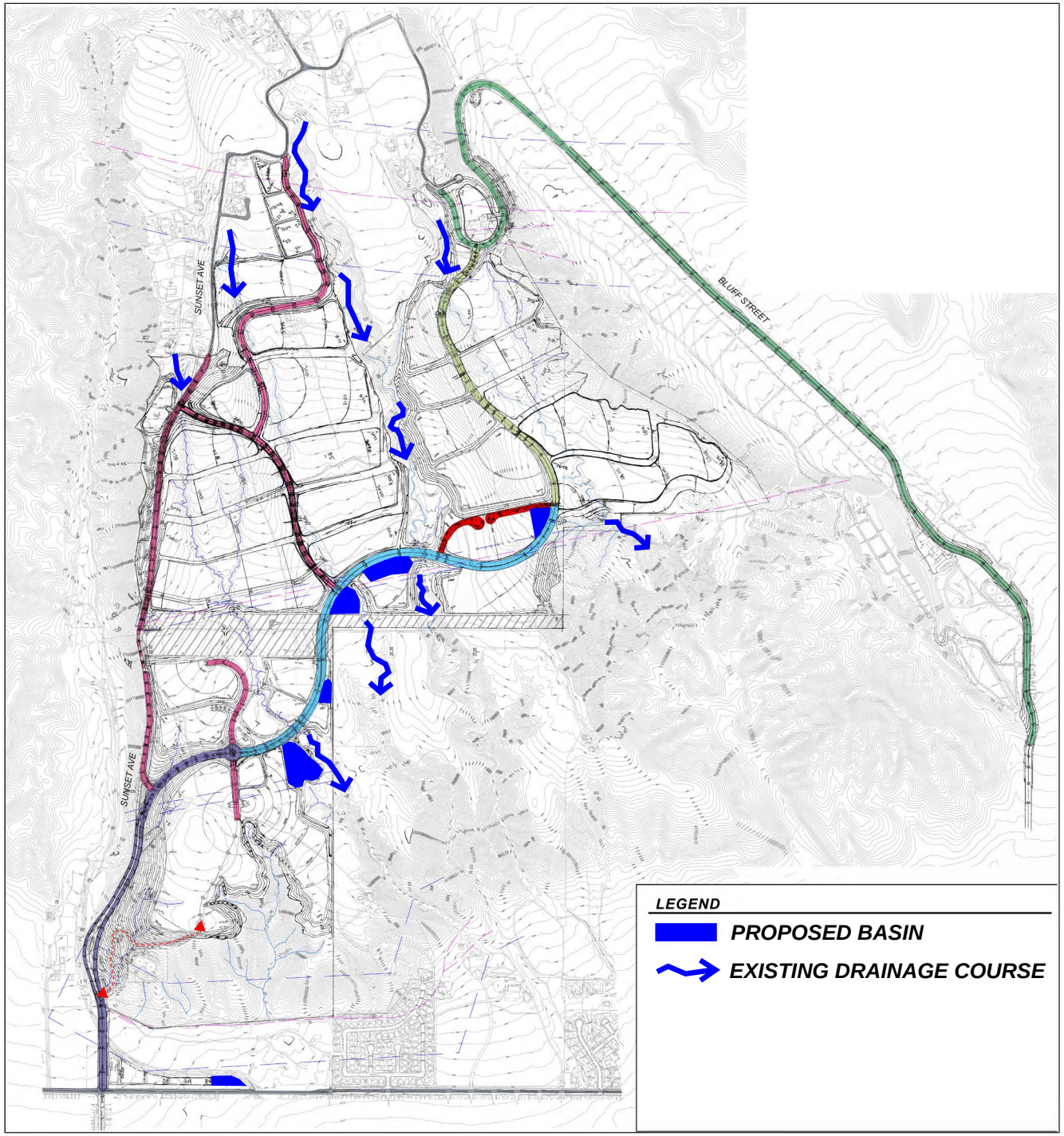
DOMESTIC WATER



LEGEND

- ZONE 1 - 3360 HGL
- ZONE 2 - 3200 HGL
- DOMESTIC WATER
- EXISTING DOMESTIC WATER
- TRANSMISSION MAIN PWP-20 (DIF)
- PROJECT BOUNDARY
- PRV — PRESSURE REGULATING STATION
- RESERVOIR (NON-DIF)
- EXISTING RESERVOIR
- BUILD-OUT RESERVOIR PWS-9 (DIF)
- BUILD-OUT PUMP STATION PWPU-7 (DIF)
- PUMP STATION (NON-DIF)

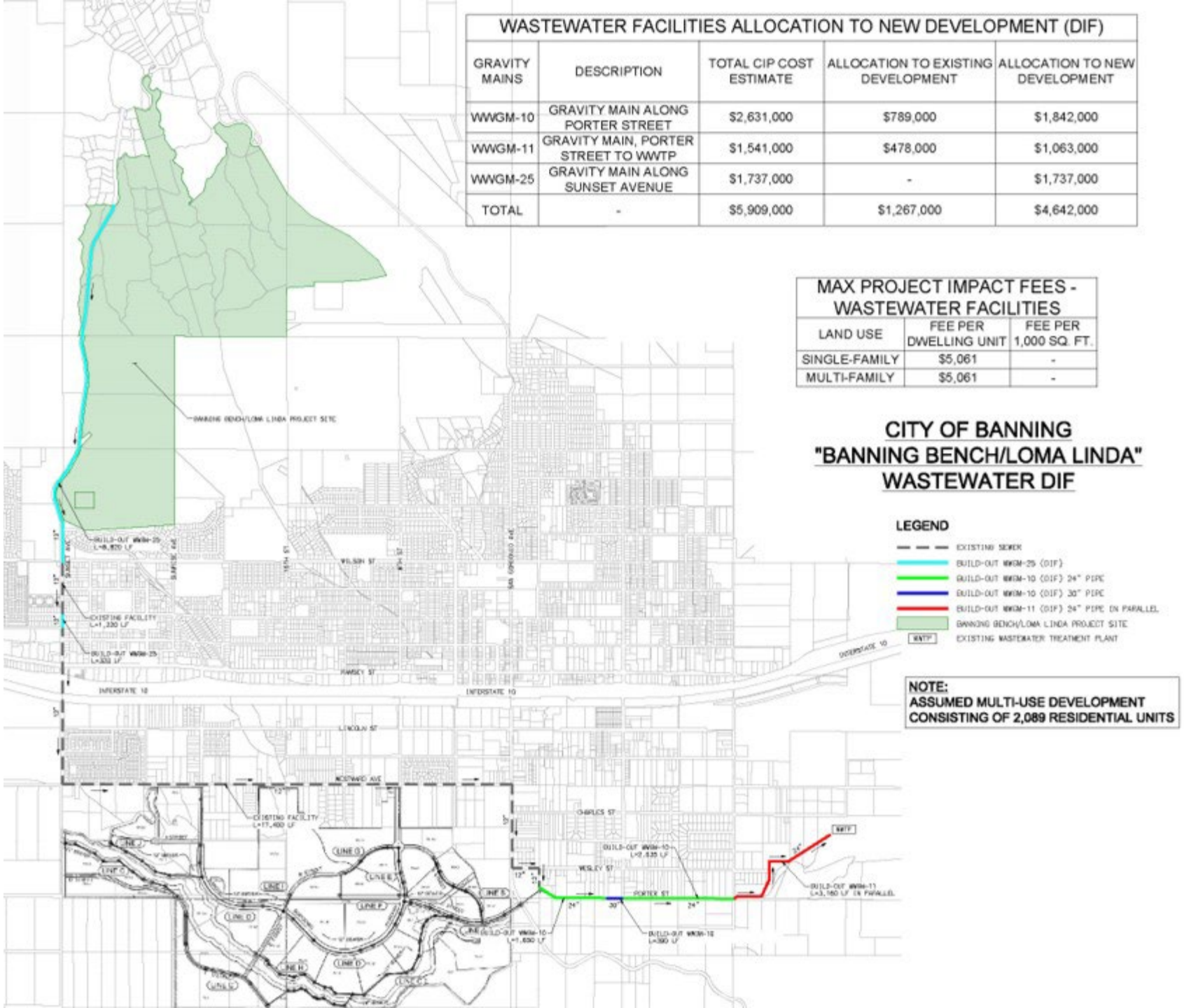
STORM DRAIN


SUNSET AVE
BLUFF STREET
SUNSET AVE
LEGEND
PROPOSED BASIN
EXISTING DRAINAGE COURSE

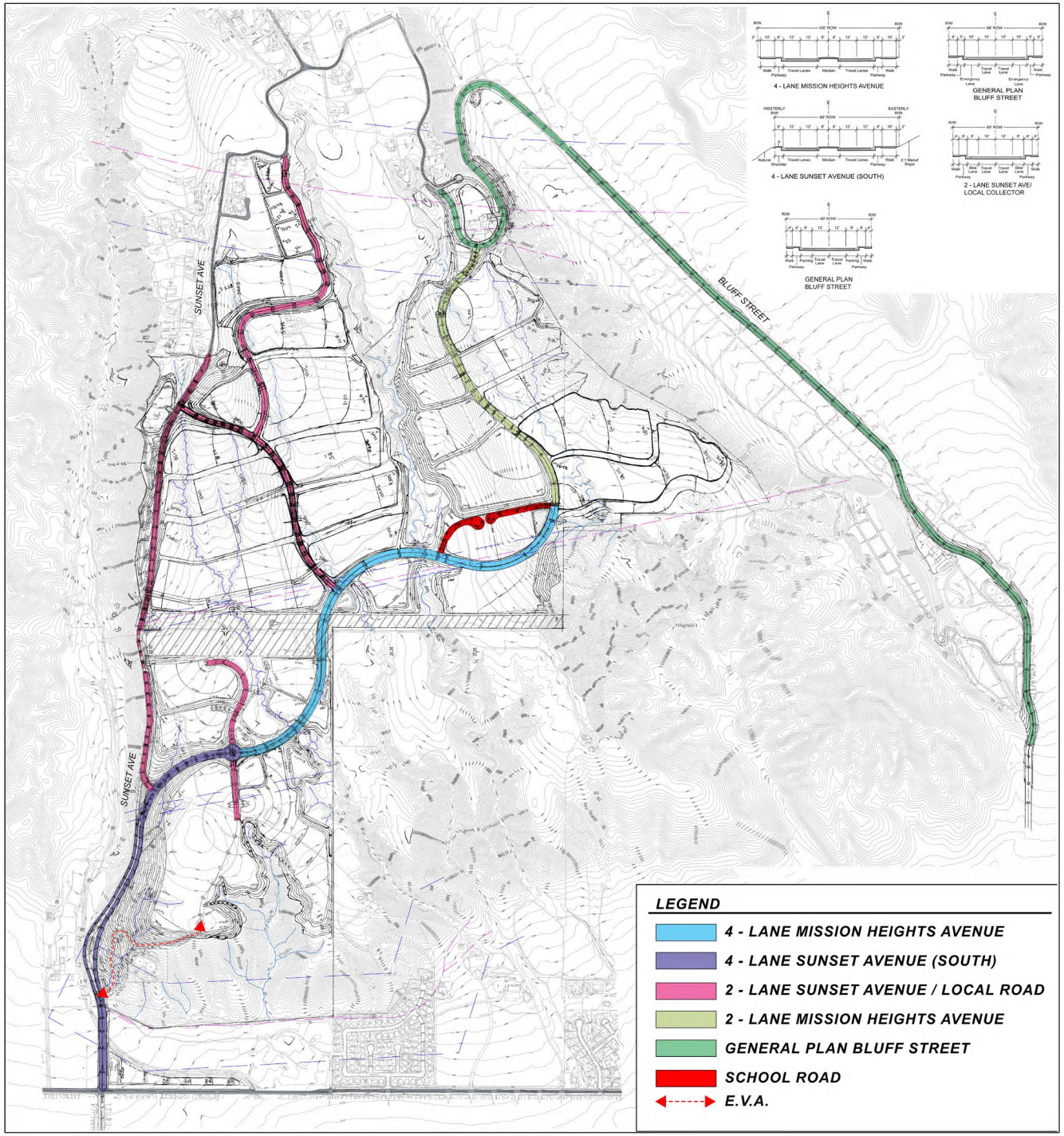
SEWER

WASTEWATER FACILITIES ALLOCATION TO NEW DEVELOPMENT (DIF)				
GRAVITY MAINS	DESCRIPTION	TOTAL CIP COST ESTIMATE	ALLOCATION TO EXISTING DEVELOPMENT	ALLOCATION TO NEW DEVELOPMENT
WWGM-10	GRAVITY MAIN ALONG PORTER STREET	$2,631,000	$789,000	$1,842,000
WWGM-11	GRAVITY MAIN, PORTER STREET TO WWTP	$1,541,000	$478,000	$1,063,000
WWGM-25	GRAVITY MAIN ALONG SUNSET AVENUE	$1,737,000	-	$1,737,000
TOTAL	-	$5,909,000	$1,267,000	$4,642,000

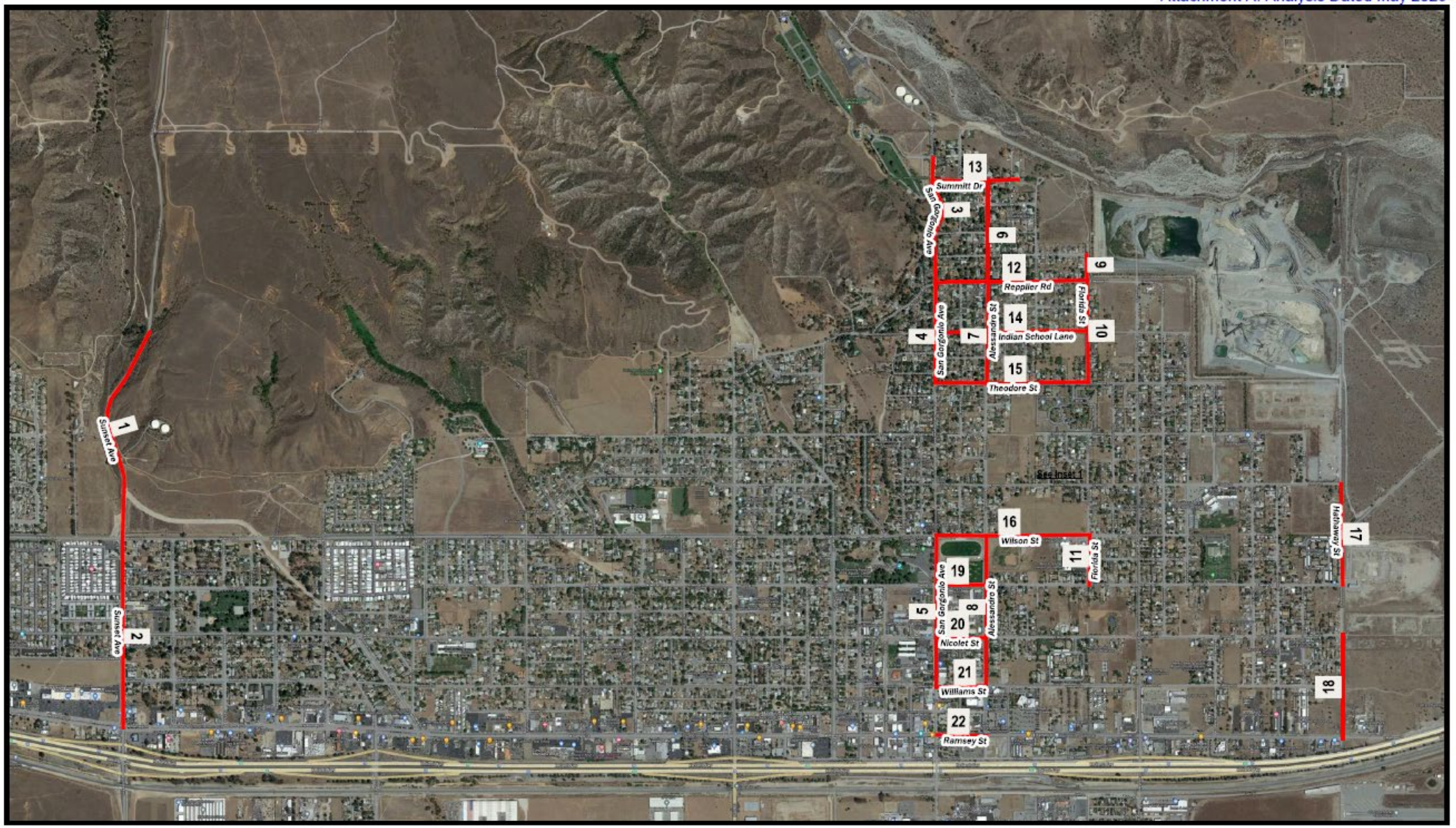
MAX PROJECT IMPACT FEES - WASTEWATER FACILITIES		
LAND USE	FEE PER DWELLING UNIT	FEE PER 1,000 SQ. FT.
SINGLE-FAMILY	$5,061	-
MULTI-FAMILY	$5,061	-



ROADWAYS


4 - LANE MISSION HEIGHTS AVENUE
GENERAL PLAN
BLUFF STREET
4 - LANE SUNSET AVENUE (SOUTH)
2 - LANE SUNSET AVE/
LOCAL COLLECTOR
GENERAL PLAN
BLUFF STREET
SUNSET AVE
BLUFF STREET
SUNSET AVE
LEGEND
4 - LANE MISSION HEIGHTS AVENUE
4 - LANE SUNSET AVENUE (SOUTH)
2 - LANE SUNSET AVENUE / LOCAL ROAD
2 - LANE MISSION HEIGHTS AVENUE
GENERAL PLAN BLUFF STREET
SCHOOL ROAD
E.V.A.

Attachment A: Analysis Dated May 2023



Legend

Roadway Segments

FIGURE 1

Banning Bench
Roadway Segments



TEAM OBJECTIVE

Team of Experts

History of the Land

Land Planning & Study

Community Vision

Next Steps

IDENTIFY THE MARKET OPPORTUNITY



LOCATIONAL ATTRIBUTES

- Today, Banning is one of the **fastest-growing cities** in the state.
- **Median home values in Banning are almost half** compared to California's average (i.e., $438,000 versus $860,300). The area serves an **affordable housing opportunity** for region.
- **Central to the desert and its coastal counties.** Banning is about 85 miles east of downtown Los Angeles, 25 miles west of Palm Springs, and 30 miles east of Riverside.
- The city is nestled between Mount San Gorgonio to the north and Mount San Jacinto to the south, with **sweeping views of two of Southern California's tallest peaks**.
- The subject sits **1,000' above the City** of Banning with 360-degree views of both San Bernardino and the San Gorgonio mountains.











A RVIEWS



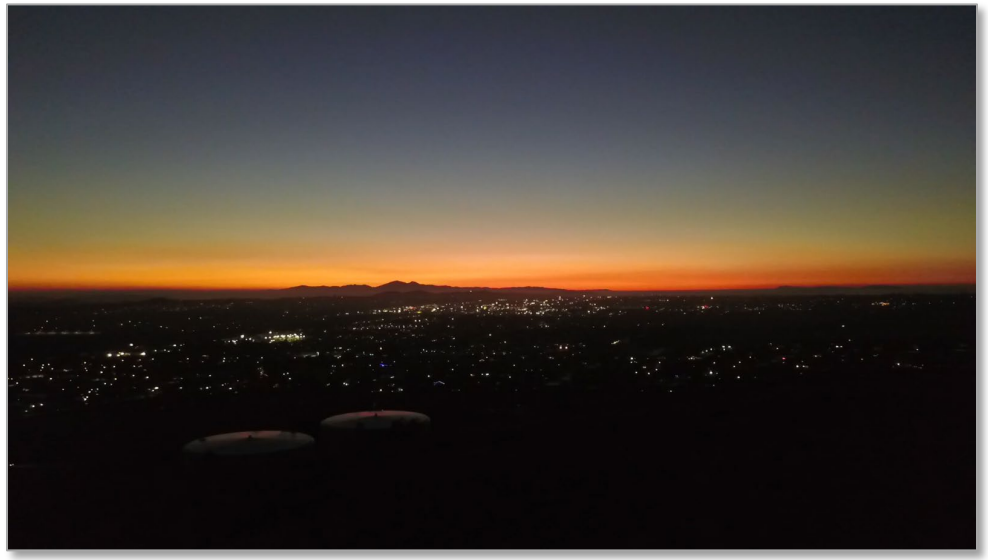
Traveling up to the property to the right



Looking South on the property

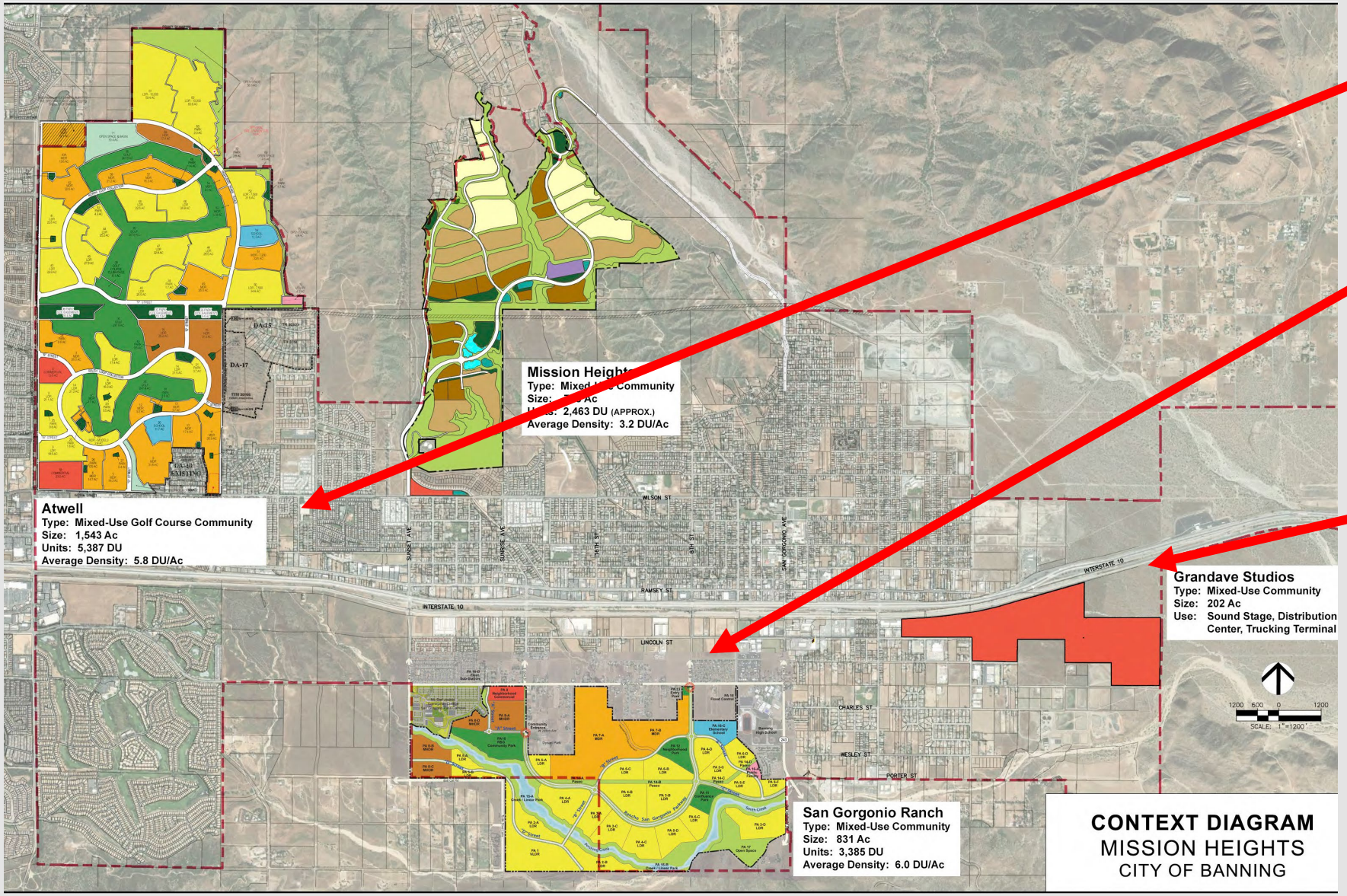


Looking North on the property



Looking West on the property

GROWTH IN THE REGION



- Including Atwell, there are currently 8,500 approved homes going through the development process in Banning, making Mayor Wallace's goal of 60,000 people a possibility.

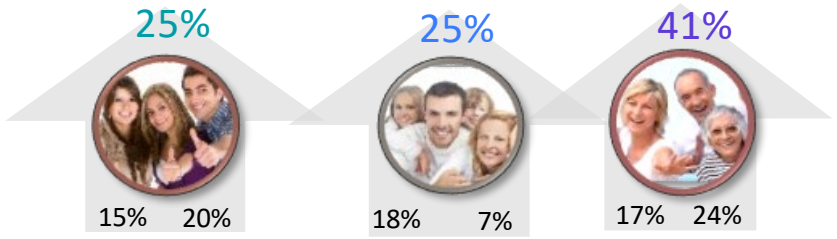
- This also includes Rancho San Gorgonio, a 831-acre master-planned development by Diversified Pacific that would add up to 3,385 residential units to the south side of Banning. Plans for Rancho San Gorgonio include an elementary school site and about 9.3 acres set aside for commercial businesses.

- Grandave Studios, a movie studio in development on a large swath of land near the Banning Municipal Airport, promises to bring around 8,000 new jobs to the city. The mixed-use site will house a $200 million movie studio project and continue the public airport use. Grandave Studios at Banning will include corporate offices, a cafe, retail stores, 16 energy-efficient, “dome structure” sound stages, a water tank, outdoor “brownstone” filming facilities.

- The City is supporting transportation projects like the Coachella Valley-San Gorgonio Pass train, which would provide more sustainable ways for Banning residents to get to work in other cities. There is a high priority to bring jobs to

MARKET OPPORTUNITY

Market Demand



Riverside-San Bernardino, CA MSA

2022					Young Singles	Young Couples	Young Families	Mature Families	Mature Singles	Mature Couples	Total
Total Housing Demand (New & Resale)					12,856	17,022	15,455	5,908	14,656	20,662	86,559
Total Sales (New & Resale)		<	$	299,999	1,110	604	1,166	289	2,107	1,292	6,568
	$ 300,000	-	$	399,999	1,942	1,305	2,351	465	2,950	1,901	10,914
	$ 400,000	-	$	499,999	3,108	2,423	3,731	591	3,271	2,805	15,929
	$ 500,000	-	$	599,999	2,974	3,586	3,645	789	2,431	3,121	16,546
	$ 600,000	-	$	699,999	2,025	3,701	2,450	1,008	1,704	3,247	14,134
	$ 700,000	-	$	799,999	957	2,471	1,107	858	965	2,281	8,641
	$ 800,000	+			741	2,931	1,006	1,907	1,228	6,015	13,827
37% **Potential New Home Demand**					4,757	6,298	5,718	2,186	5,423	7,645	32,027
New Home Opportunity		<	$	299,999	411	224	431	107	780	478	2,430
	$ 300,000	-	$	399,999	718	483	870	172	1,091	704	4,038
	$ 400,000	-	$	499,999	1,150	897	1,380	219	1,210	1,038	5,894
	$ 500,000	-	$	599,999	1,100	1,327	1,349	292	899	1,155	6,122
	$ 600,000	-	$	699,999	749	1,369	906	373	630	1,201	5,230
	$ 700,000	-	$	799,999	354	914	410	318	357	844	3,197
	$ 800,000	+			274	1,085	372	706	454	2,225	5,116

DEMOS IN SURROUNDING AREA

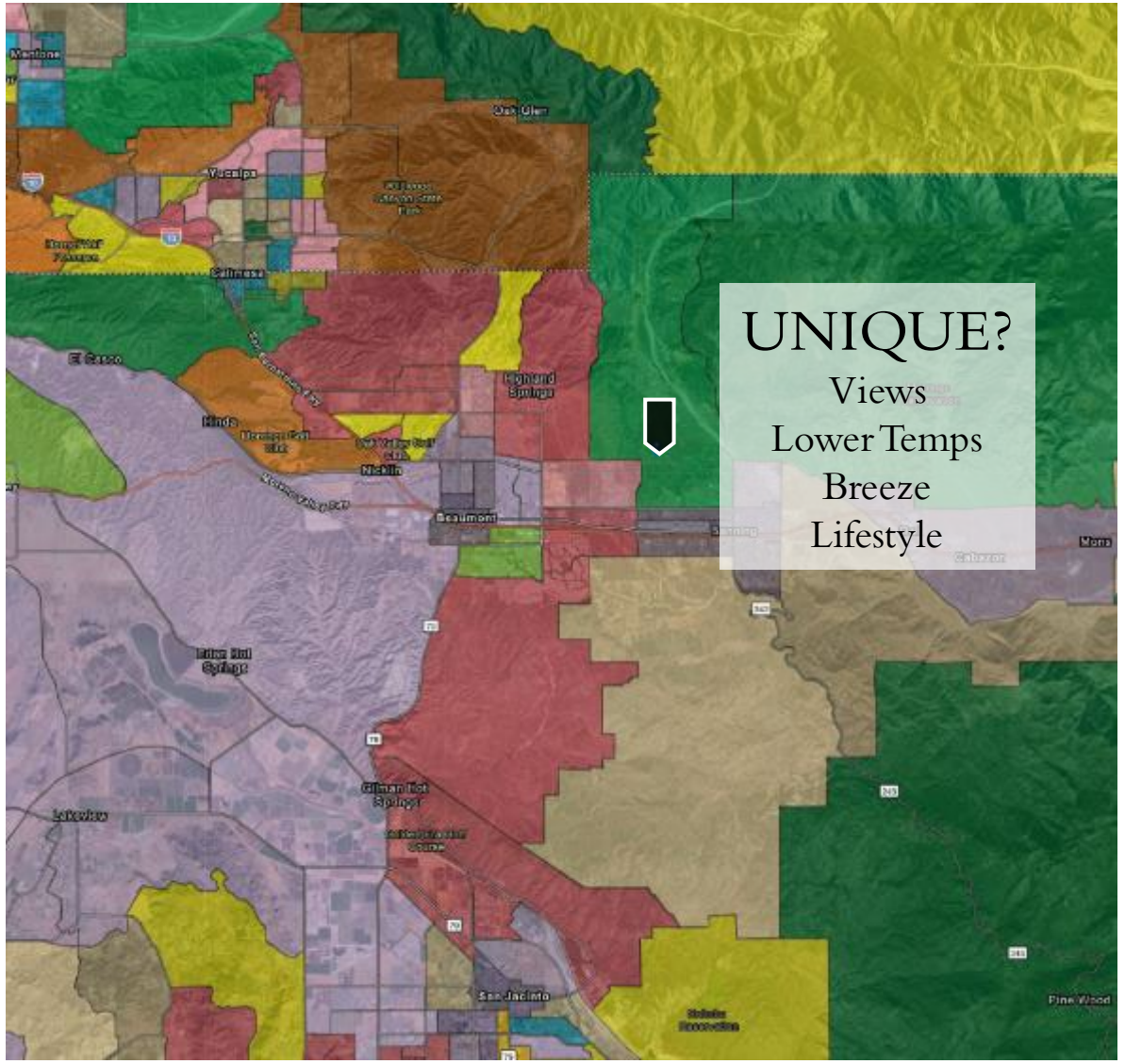
#	Life Position
	Singles/Non-Family
3	Young Non-Family
8	Suburban Couples
	Young Couple/Family
4	Young Family
7	Ethnic Affordable Family
	Affluent Couples/Family
1A	Affluent Mature Couples
1B-C	Affluent Families
1D-E	Mature Couples
	Couples
2	Mature Couples
5	Move-Down Mature Couples
6	Rural Couples
	Retirees
9	Retirees

#3

#1

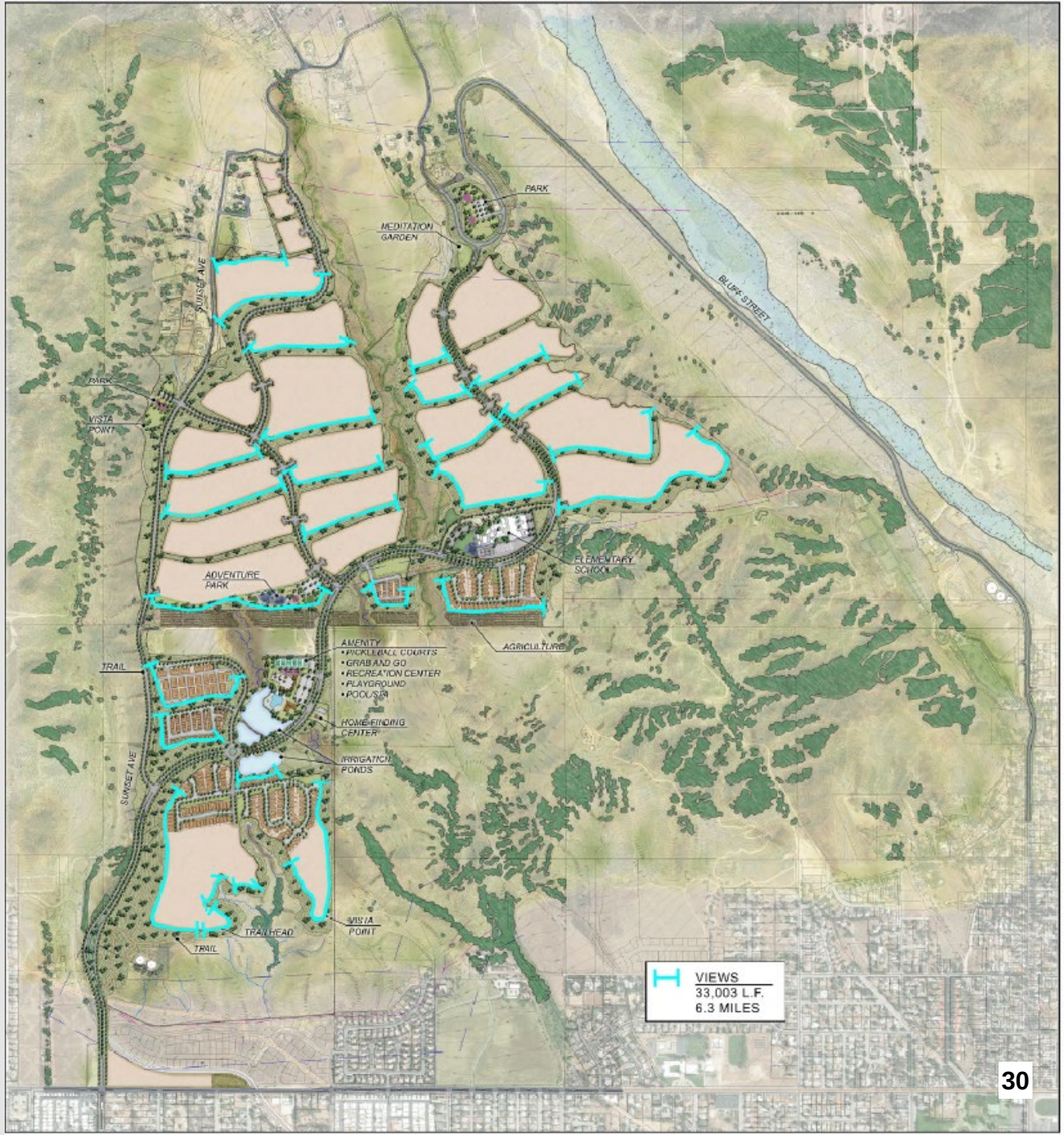
#2

Mosaic



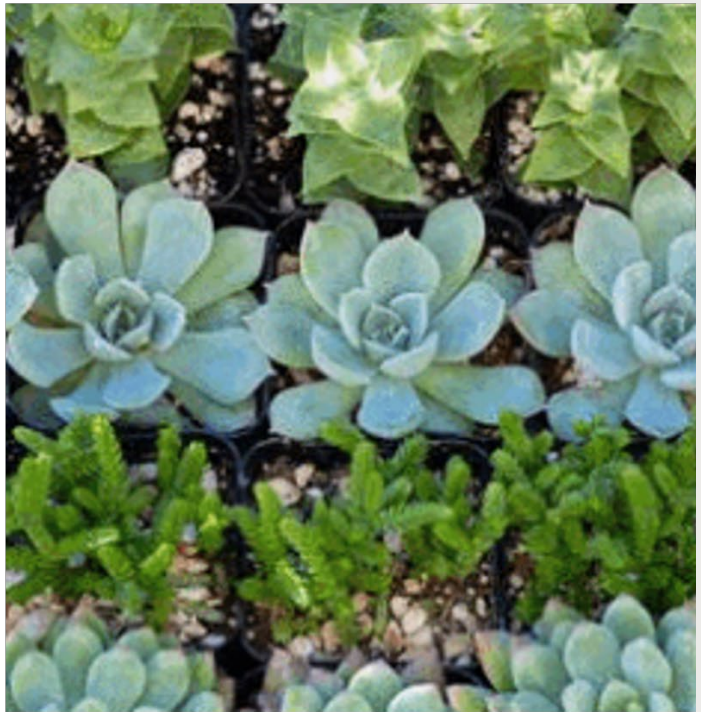
OUR MISSION STATEMENT

“Life elevated with the best views, temperatures, and healthy life principles throughout our community and home designs.”









INTRODUCTION

Mission Heights is…

…a Place to start

…a Place to proudly raise your kids

…a Place you will want to retire

COMMUNITY CORE PRINCIPLES

1. **Nature-Inspired Living:** Preserve significant natural open space areas designed to embrace the view and engage with nature.

2. **Sustainability and Environmentally Sensitive:** Design a community that considers the right sustainable practices, the economics, the environment, social impacts, and human essential components.

3. **A Life and Style Worth Moving For:** We have designed a range of amenities including farmhouse cave, pool and club area on the view, water elements, and living on the view. All of our amenities were top rated with consumers in the area.

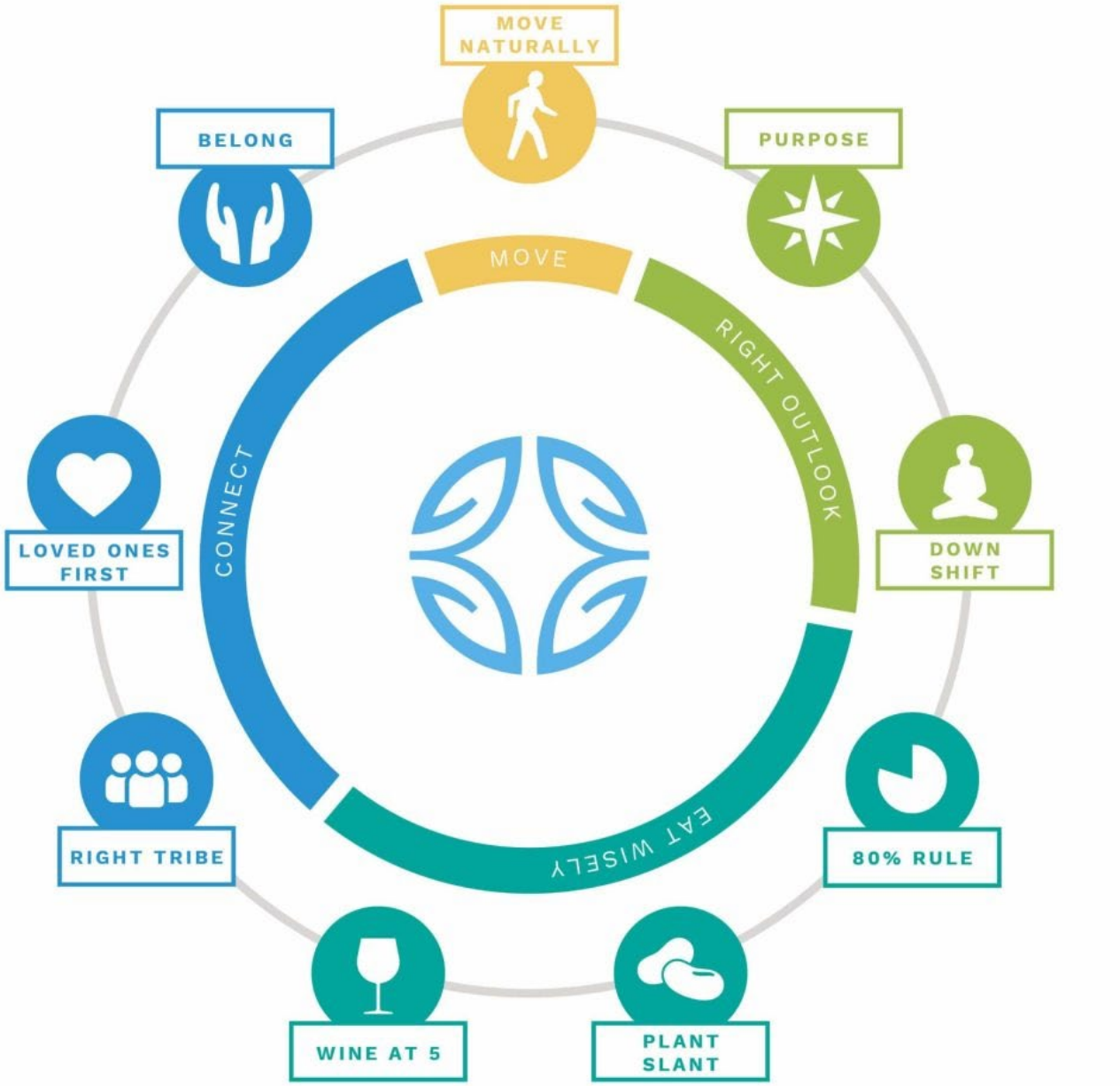
4. **Healthy Blue Zone Principles** will be at the core of our community's design. This includes moving naturally, having purpose, healthy eating, and building tribes for life.

5. **State-Of-The-Art-Technology** that makes life easier, more efficient, and better for all aspects life. This includes easy access to community amenities throughout, their homes, and state-of-the-art speed..

6. **A respect for the land and its history** will be found throughout. A nod to the land's history will be found in special places throughout the community with the community name, architecture, historical markers on trail locations, the park

Life elevated.

Blue Zone Living



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PURPOSE: The community design celebrates the land's history with its name, architecture, and blue zone planning principles

COMMUNITY AMENITIES

A lifestyle worth moving for…

- Homes with the best views in the region
- Farm to Table with Grab and Go
- Work Live Space (Indoor and Outdoor)
- Covered Outdoor Arena
- Outdoor Play Areas (i.e., ping pong, pickle ball, kids play area, yoga lawn, benches, green, swings, etc.)
- Connection to regional trails for walking, hiking, and biking
- Outlook points and special parks throughout
- Historical markers at key points along trail system
- Covered Outdoor Moments
- Multi-Modal Trails and Connections
- Variety of homes and density with multi-family to estate product













MISSION HEIGHTS

Be part of a community that honors its past while embracing the promise of tomorrow. Discover the possibilities and secure your place in this exciting new chapter!"

- Village 2 – Upper Mission Heights

  Suburban Move-up Family

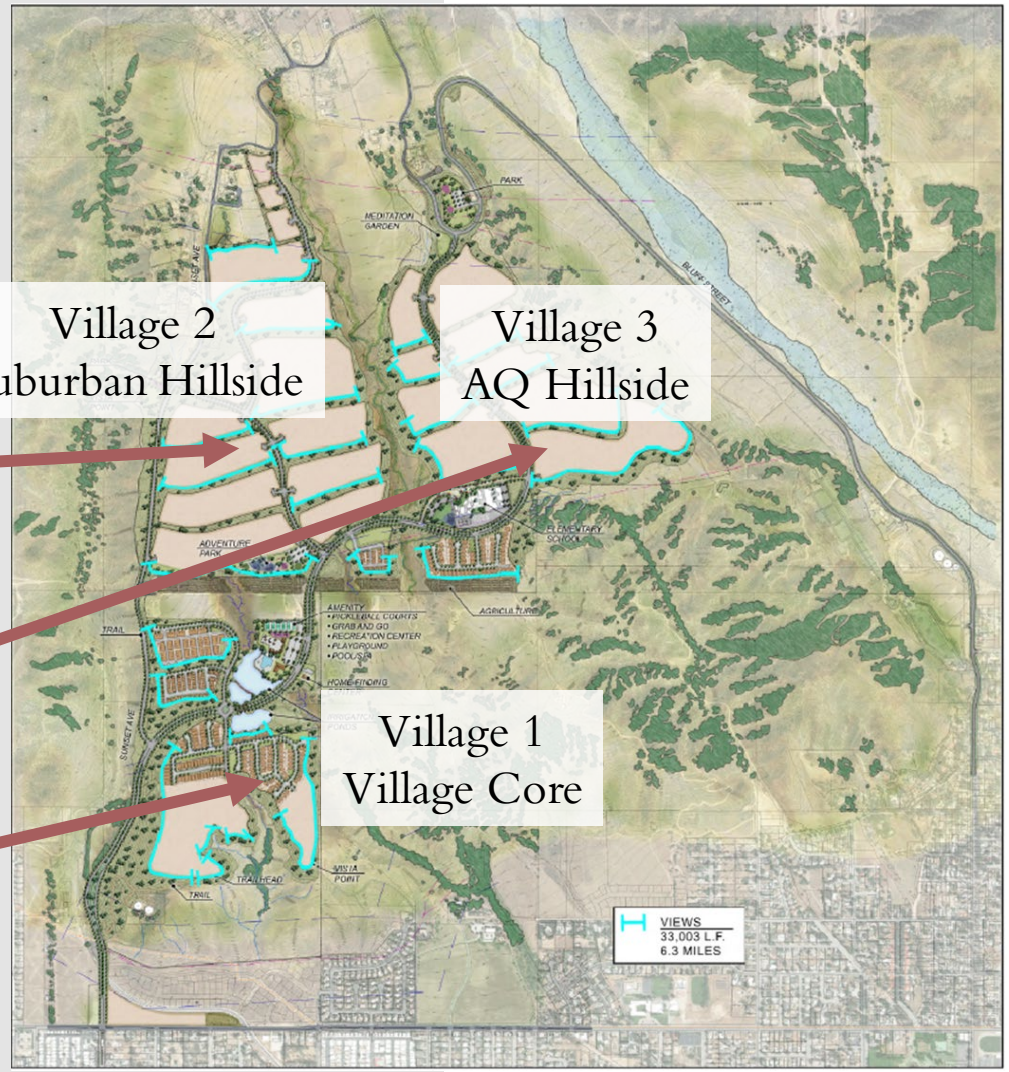
- Village 3 – Upper Mission Heights, Age Qualified

  Move-Down Retiree Living with a View!

- Village 1 – Village Core

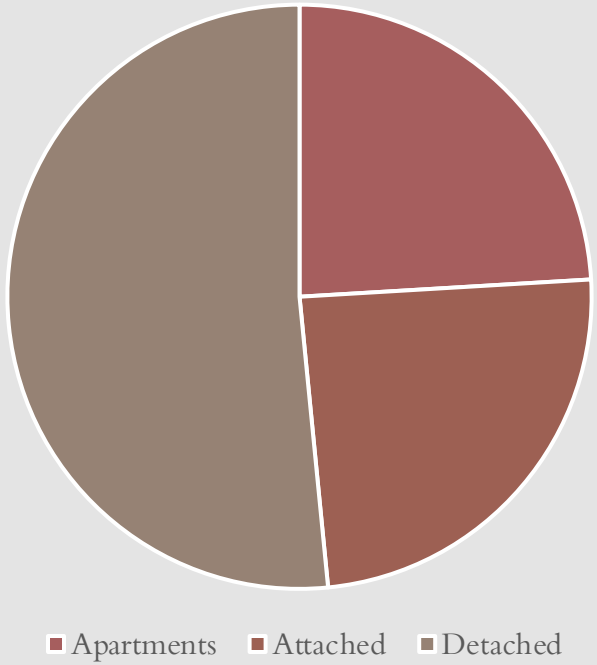
  Highest Density, Most Affordable

  Non-Family or Starter Family



A VARIETY OF HOME CHOICE

Product Types Offered



SUMMARY BY PRODUCT				
Product	**Average SF**	**DU**	**ACRES**	**DU/AC**
Apartments	1,036	593	38.5	15.4
Townhomes/Flats	1,200	210	13.1	16.0
Row Townhomes	1,675	258	18.4	14.0
Paired	1,057	133	11.1	12.0
47' x 70'	2,117	313	34.8	9.0
52' x 75'	2,433	196	26.8	7.3
45' x 100'	2,513	228	40.3	5.7
55' x 100'	2,100	175	34.0	5.1
65' x 100'	2,567	186	42.8	4.4
80' x 100'	2,800	173	50.3	3.4
Totals		**2,463**	**310.1**	**7.9**









VILLAGE 1

A Modern Hillside Village Core

Target: Starter Family and Move-Downs

It's where everything happens…

- Grab and Go, Farm to Table and Winery
- Covered outdoor arena
- Community Gardens
- Central community pool
- Connecting Trails
- Water elements with a view



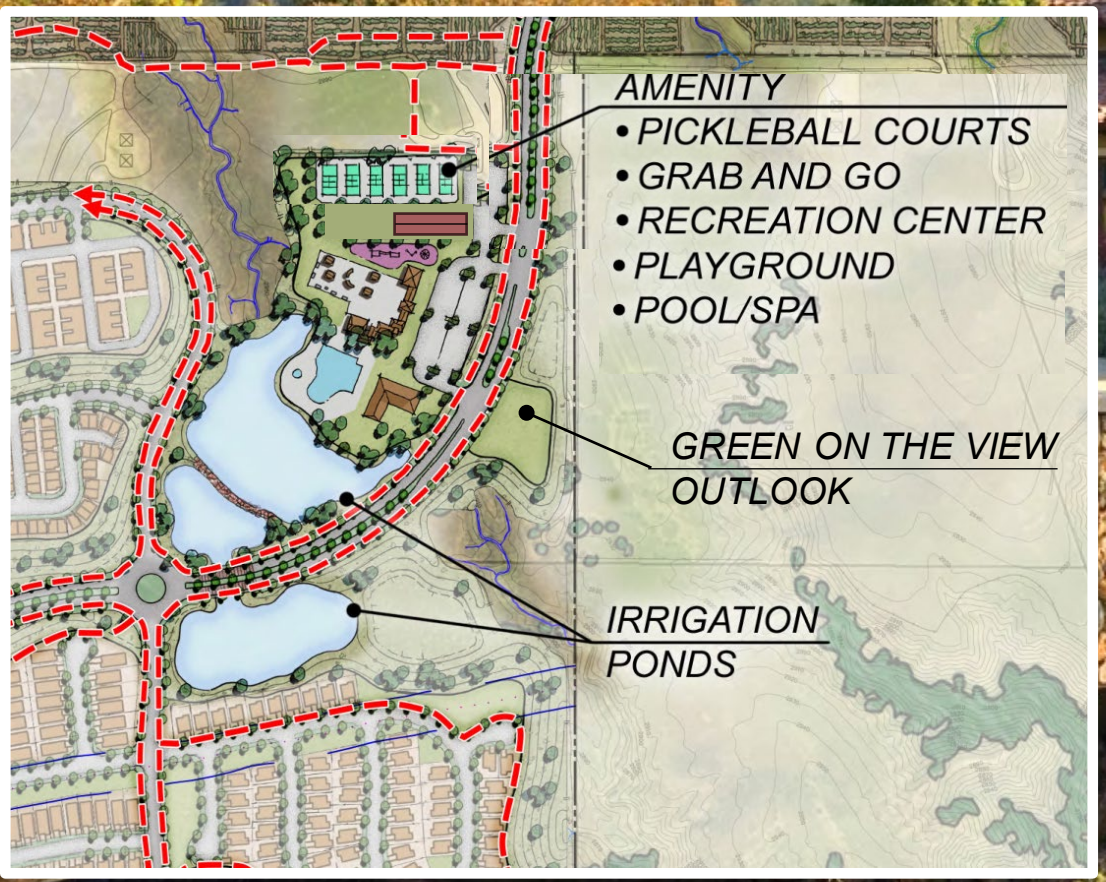


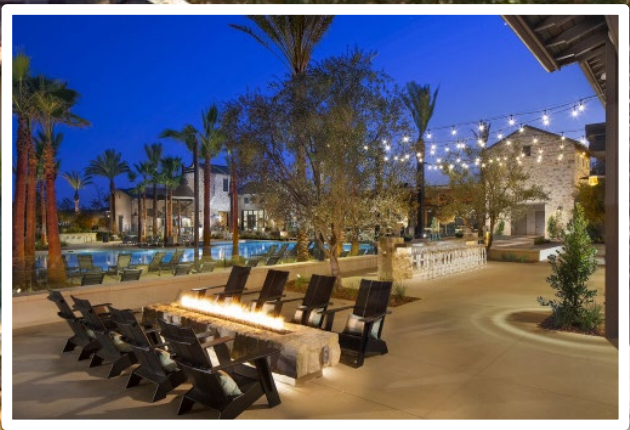






THE CORE


AMENITY
• PICKLEBALL COURTS
• GRAB AND GO
• RECREATION CENTER
• PLAYGROUND
• POOL/SPA
GREEN ON THE VIEW OUTLOOK
IRRIGATION PONDS



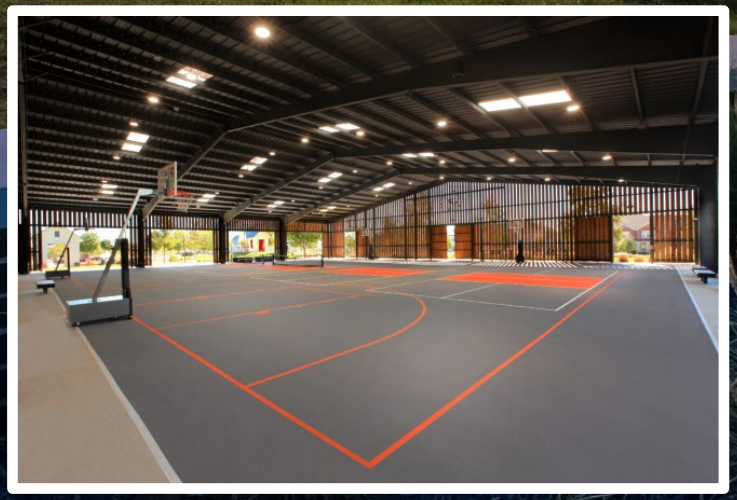


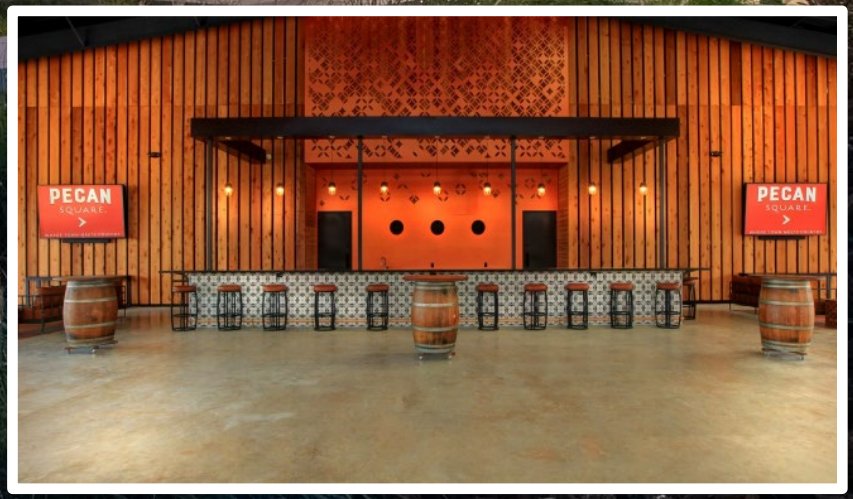


HEALTHY: The heart of the community will support the “80% rule, plant slant”, and “wine @ 5” found in blue zone categories.

COVERED OUTDOOR SPACE









TRIBES: Social programming will be designed with a healthy focus, art programs, and music to draw the right tribe together and create more tribes as a community.



MOVE: Regional trails with soft and hard trails designed inside and off nature within the community and connecting to the regional trail system



MOVE: Regional trails with soft and hard trails designed inside and off nature within the community and connecting to the regional trail system



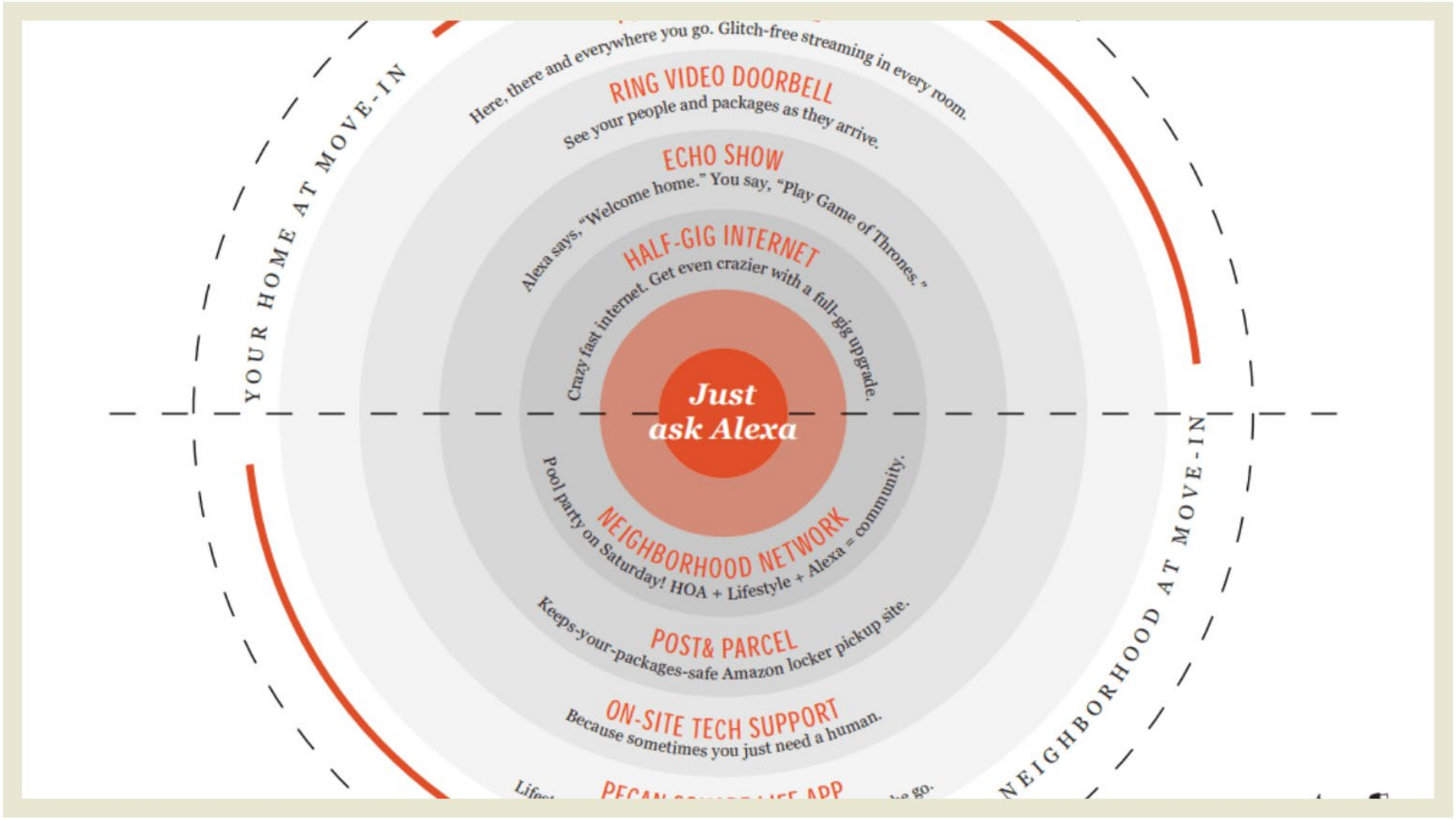
COMMUNITY INTEGRATION



SUSTAINABLE DESIGN

Integration of sustainable design through material, energy, and the most current technology

STELLAR COMMUNITY & HOME TECHNOLOGY & SUSTAINABILITY



VILLAGE 2

Hillside Suburban Living

Target: Move-Up Family and Move-Down

A place to breathe a little easier…













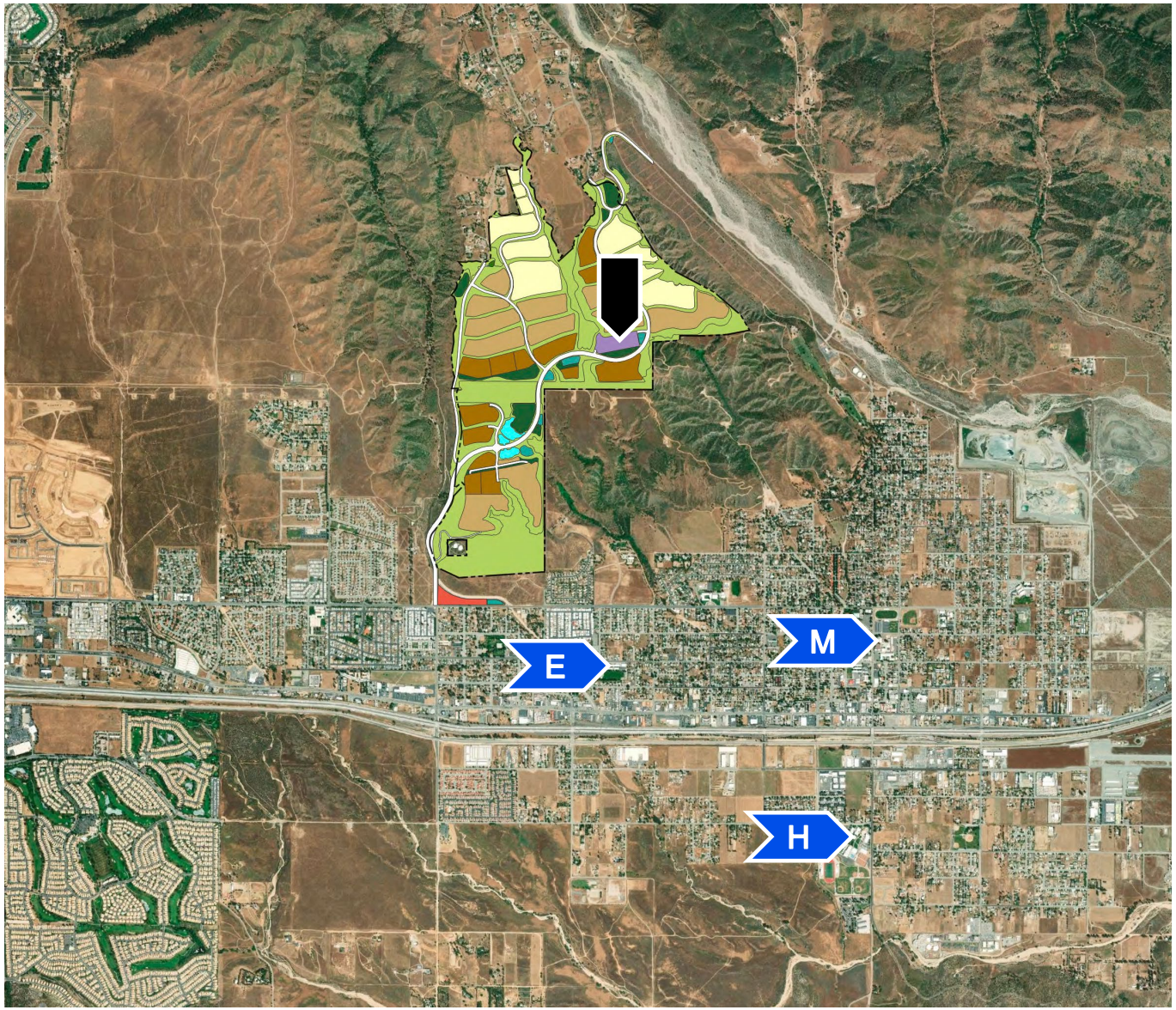
DOWNSHIFT: The community will “downshift spaces” to shed daily stress and breathe: Parks, lookout points, and the community’s yoga lawn will create spaces to breathe, be thankful, and enjoy moments connect to its land.






NOTHING IS POSSIBLE
WITHOUT THE RIGHT
EDUCATION.

We need to reach higher…



Project	School	District	Rating
Elementary Schools			
Overlook	Summerwind Trails (K8)	Beaumont Unified	New
Olivewood	Tournament Hills ES	Beaumont Unified	7
Tournament Hills	Tournament Hills ES	Beaumont Unified	7
Ridge View	Tournament Hills ES	Beaumont Unified	7
Big Canyon	Tournament Hills ES	Beaumont Unified	7
Augusta	Tournament Hills ES	Beaumont Unified	7
Atwell	Sundance ES	Beaumont Unified	6
Altis	Starlight ES	Beaumont Unified	5
Serrano Lake	Ridgeview ES	Yucapia-Calimesa USD	5
Subject	**Hemmerling ES**	**Banning Unified**	**3**
Middle Schools			
Overlook	Summerwind Trails (K8)	Beaumont Unified	New
Atwell	San Gorgonio MS	Beaumont Unified	5
Altis	San Gorgonio MS	Beaumont Unified	5
Olivewood	Mountain View MS	Beaumont Unified	5
Tournament Hills	Mountain View MS	Beaumont Unified	5
Ridge View	Mountain View MS	Beaumont Unified	5
Big Canyon	Mountain View MS	Beaumont Unified	5
Serrano Lake	Park View MS	Yucapia-Calimesa USD	5
Augusta	Mountain View MS	Beaumont Unified	5
Subject	**Nicolet MS**	**Banning Unified**	**2**
High Schools			
Serrano Lake	Yucaipa HS	Yucapia-Calimesa USD	6
Atwell	Beaumont HS	Beaumont Unified	5
Altis	Beaumont HS	Beaumont Unified	5
Olivewood	Beaumont HS	Beaumont Unified	5
Tournament Hills	Beaumont HS	Beaumont Unified	5
Ridge View	Beaumont HS	Beaumont Unified	5
Big Canyon	Beaumont HS	Beaumont Unified	5
Augusta	Beaumont HS	Beaumont Unified	5
Overlook	Beaumont HS	Beaumont Unified	5
Subject	**Banning HS**	**Banning Unified**	**4**

Source: Zonda™, Google Earth, Greatschools.com

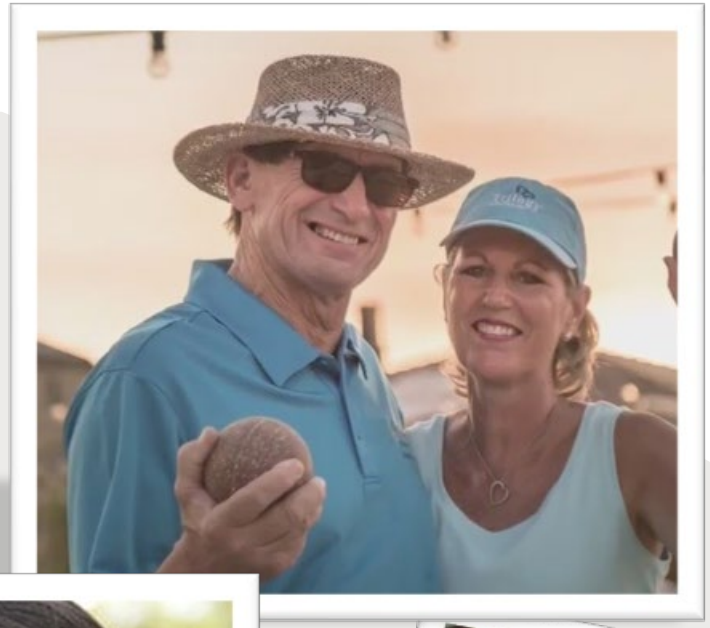
VILLAGE 3

Hillside Retirement Living

Target: Move-down couples

Retiring with the right view…

- One-story living on the view
- 55+ Community Club & Fitness
- Connecting Trails
- Tot Lot and Dog Park
- Pickle Ball
- Fitness Programs
- Social Programs and Clubs







An active adult lifestyle worth moving for…





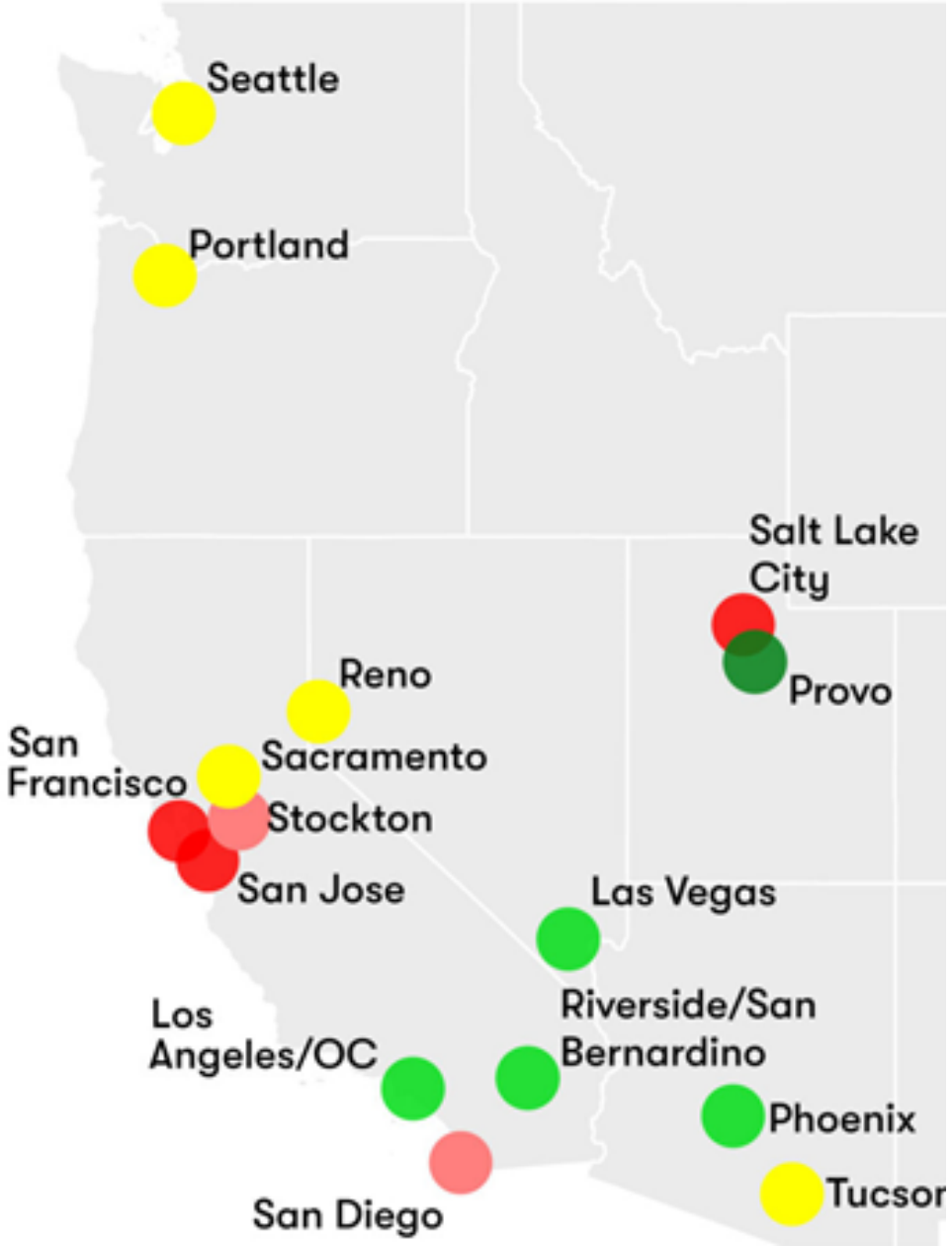


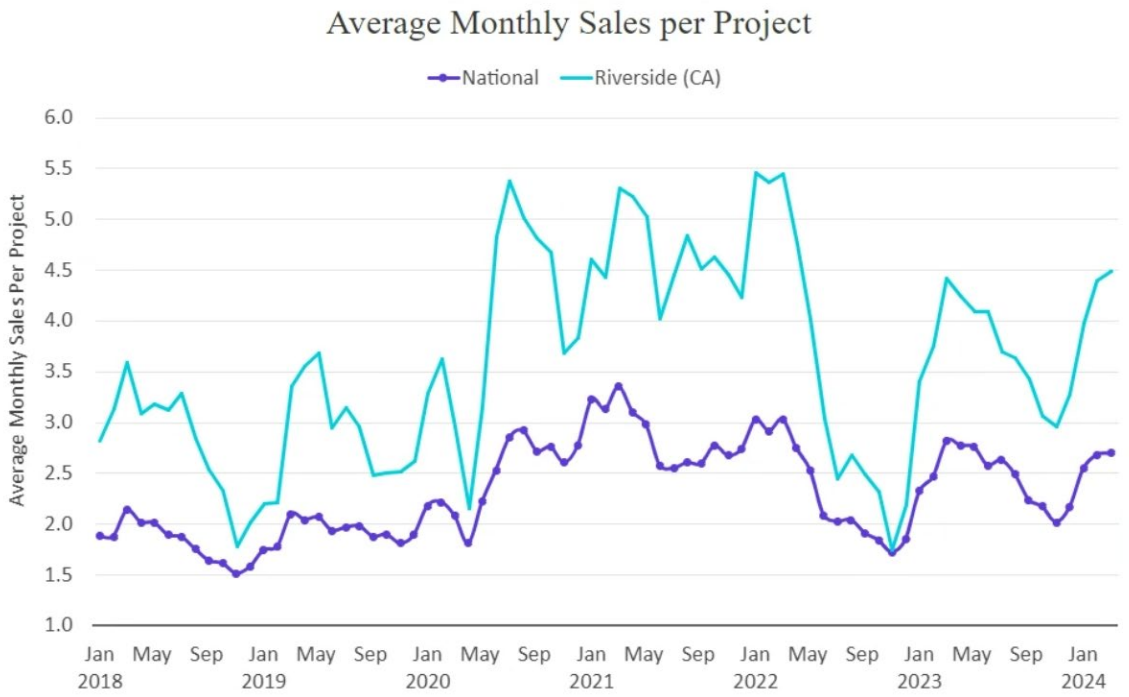






The Inland Empire is amongst the top performing markets in the West and continues to outperform the nation…





Market Rankings - February 2024

- Significantly Overperforming
- Slightly Overperforming
- Average
- Slightly Underperforming
- Significantly Underperforming



TEAM OBJECTIVE

Team of Experts

History of the Land

Land Planning & Study

Community Vision

Next Steps

WORK COMPLETED & NEXT STEPS

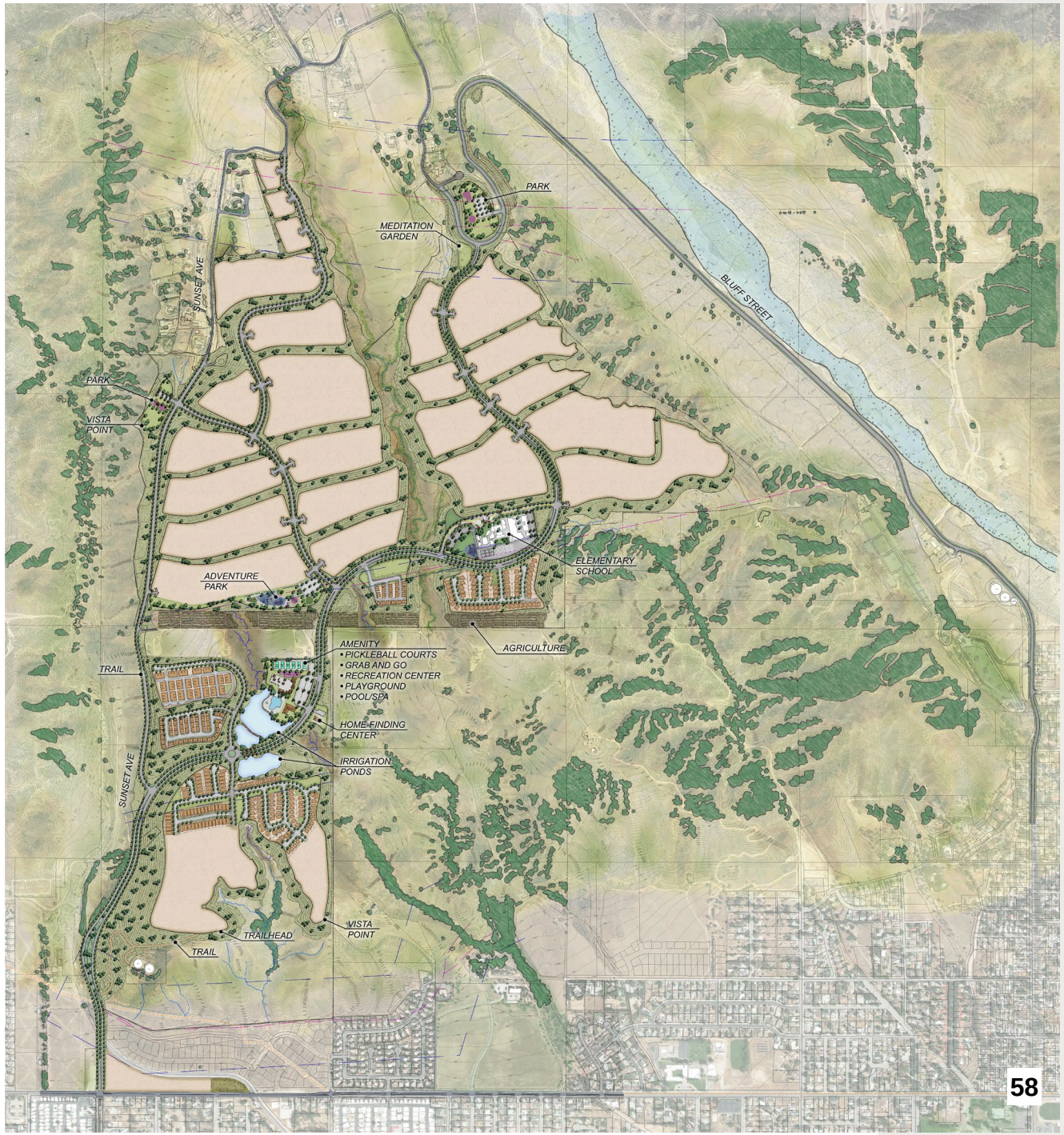
Work Completed

Feasibility: Completed

Total Homes:	2,463 Homes
Gross Acres:	768 Acres
Net Dev Acres:	310 Acres
Open Space:	458 Acres

Next Steps

Next Steps:	Kick Off The Entitlement Phase



ENTITLEMENT SCHEDULE

	2024		2025				2026				2027			
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Project Team Agreements, Budgets and Schedules														
Land Planning and Tentative Tract Map Preparation														
Technical Studies (BIO / GEO / HYDRO / UT / CULT/ TRAF)														
Specific Plan Amendment														
EIR Preparation														
Development Agreement														
Creation of Special Assessment District														
EIR Review / Comments / Hearings														

THANK YOU!

June 30, 1995

City Council Meeting
July 11, 1995

TO: Honorable Mayor and City Council

FROM: Community Development Director

PUBLIC HEARING

SUBJECT: **ORDINANCE NO. 1178: SECOND READING - PROPOSED PRE-ANNEXATION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BANNING AND LOMA LINDA UNIVERSITY.**

RECOMMENDATION: The City Council approve by second reading Ordinance No. 1178, and adopt same.

RECOMMENDED MOTIONS:

Environmental Documents:

"The City Council finds that adopting Ordinance No. 1178 has no potential for causing significant adverse effects on the environment because the decision to adopt the pre-annexation and development agreement has no traffic consequences, impacts on air, biology, land use, etc. Provisions contained within the Development Agreement require future environmental analysis; deferral of the formulation of mitigation measures until after project approval is allowed by the City, because it has made a commitment to ultimately satisfy performance standards or criteria and has ensured the avoidance of any significant effects by requiring the project proponent to provide environmental analysis for any future physical development of the property. The City Council therefore adopts a Negative Declaration and directs staff to file and post a Notice of Determination in accordance with the City's Environmental Guidelines".

Ordinance No. 1178 :

MOTION:

Mayor asks City Clerk to read the title of Ordinance No. 1178:

"AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING ADOPTING PRE-ANNEXATION AND DEVELOPMENT AGREEMENT 1995-01 BETWEEN THE CITY OF BANNING AND LOMA LINDA UNIVERSITY.

14

Motion: **I move to waive further reading of Ordinance No. 1178.** (Requires majority vote of Council)

Motion: **I move that Ordinance No. 1178 pass its second reading and be adopted.**

JUSTIFICATION: The City Council adopted a Resolution in October 1991 establishing its intent to annex the Loma Linda University's (herein called "University") properties. In order for the University to move forward with its planning of the properties it is necessary to first secure certain agreements with the City. The proposed provisions contained within the document are mutually desired by the City and the property owners, and will ease future monitoring and enforcement for the development of the project.

BACKGROUND/ANALYSIS: At its meeting held on June 13, 1995 the City Council approved the first reading of Ordinance No. 1178. There was considerable discussion relating to the environmental documentation and whether such documents were properly noticed. The City's Attorney felt it would be best if the City re-noticed the public hearing on these documents and the City Council make the same environmental motion it made for the first reading. Notice was provided in the Record Gazzette newspaper and filed with the County Clerk.

On October 21, 1991, the City Council adopted Resolution 1991-20, consenting to initiate proceedings to annex the University's properties (City Annexation No. 19).

On February 23, 1995, LAFCO conditionally approved the City's request for annexation of the University's property.

The purpose of the Pre-Annexation and Development Agreement is to provide the City and University mutual assurances relating to the future development of the property.

The Pre-Annexation and Development agreement identifies the boundaries, acreage, number of dwelling units, requirements for recreational open space, and subsequent City applications to be processed, all effective upon completion of LAFCO procedures associated with annexation of the properties.

The following summarizes the more significant aspects of the document:

(1) The agreement ensures the zoning on the property remains identical to the pre-zoning designations the City assigned to the properties when it was under consideration for annexation (RA & RA One Acre).

(2) The University is restricted to a maximum 944 residential dwelling units with minimum interior square footage of 1,200 square feet and maximum height of 30 feet.

15

(3) The University provides to the City an irrevocable offer of dedication of a 1 acre police/fire station site without credit against developer fees or cost to the City.

(4) The agreement provides the University with three (3) options for satisfying parkland mitigation: (Note: the options have been listed in the order in which the Planning Commission would prefer to obtain mitigation, the Commission emphasized it felt option (a) should be chosen as the means to obtain mitigation).

(a) The University acquire, improve, and dedicate a 7.5 acre site for expansion of the City's Lions Park. Improvements to include landscaping & irrigation, and two Little League ball diamonds.

(b) Dedication and improvement of 7.5 acres of public park land within the project area. Such improvements shall include amenities associated with neighborhood parks, i.e., grass, trees and plants, together with an irrigation system, picnic area, tot lot, and restroom. Landscaping and location of such amenities shall be determined by the City. (Note: this option needs to be included in the agreement on page 6, it was added by the Planning Commission at its meeting on June 5, 1995 at the recommendation of the Community Services Director - the project proponent does not object to this option).

(c) Provide the City with a 15 acre site within the project area at a location agreeable to both parties.

(5) City may require the University transfer its water stock appurtenant to the property, and require the University to establish new wells or other water facilities to serve the property.

(6) The City is obligated to permit the processing of a Specific Plan Overlay Zone District on the property. If University processes a Specific Plan the following are applicable:

(a) University provides a 10 acre Elementary School site without cost to the school district; the site constitutes full and complete mitigation for school related impacts.

(b) University has option of developing an 18 hole golf course (City may restrict irrigation to reclaimed water or other non-potable water - with University responsible for all costs for extending infrastructure for same).

(c) University is required to provide a public easement for sewer line purposes to serve neighboring land (Dickinson parcels).

(7) University agrees to pay its pro rata share of costs associated with required circulation improvements with proviso it will be reimbursed if it oversizes such improvements and it benefits other landowners.

16

(8) The agreement contains provisions for financing of facilities, wildland fire protection, reimbursement for oversizing facilities

(9) The term of the agreement is specified at 25 years.

(10) Recitals to clarify background and facts.

(11) Provisions for dispute resolution.

At its meeting held on June 6, 1995, the Planning Commission adopted Resolution No. 1995-03, recommending the City Council adopt the subject Pre-annexation & Development Agreement.

ACTION (CONNOLLY/BURNS): A motion was moved, seconded and carried that the Planning Commission adopt Resolution No. 1995-04; A Resolution of the Planning Commission of the City of Banning recommending the City Council adopt the Pre-Annexation and Development Agreement between the City of Banning and Loma Linda University (Development Agreement No. 1995-01) as amended.

Commissioner Condos was unable to attend; excused absence.

As previously stated, during the Commission's proceedings, there was considerable discussion regarding parkland mitigation (Item No. 4 above). While the Planning Commission entertained all three options (Subletters a-c), it placed emphasis in its recommendation that it preferred option (a).

It should be noted, that during the deliberations on the proposed agreement, the Planning Commission received testimony and correspondence from the "Banning Bench Community of Interest Association" (attached Exhibit "4") indicating it was of the opinion an Environmental Impact Report (EIR) needed to be prepared prior to the City adopting the agreement. The Planning Commission imparted that based upon the input received from the City's Attorney, it held the opinion the City was able to proceed with the adoption of the agreement without first having to prepare an EIR.

ENVIRONMENTAL ANALYSIS: No physical development is proposed for the property at this time. Actions associated with approval of the document will not cause any significant environmental effects. The decision to adopt the pre-annexation and development agreement has no traffic consequences, impacts on air, biology, land use, etc., because the approval does not in any way lead the City "one step closer to an ecological point of no return".

Provisions contained within the Development Agreement require future environmental analysis; any proposed development of the subject property will require additional environmental review.

The deferral of the formulation of mitigation measures until after project approval is allowed by the City, because it has made a commitment to ultimately satisfy performance standards or criteria and has ensured the avoidance of any significant effects by requiring the project proponent to provide environmental analysis for any future physical development of the property.

17

RECOMMENDED BY:

Roger Derda
Community Development Director

REVIEWED BY:

David Weitzel
City Manager

Attachment: Exhibit "2" - Ordinance No. 1178 (Contains Pre-annexation and Development agreement).

Exhibit "3" - Legal Notice.

18

ORDINANCE NO. 1178

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING RECOMMENDING ADOPTING PRE-ANNEXATION AND DEVELOPMENT AGREEMENT 1995-01 BETWEEN THE CITY OF BANNING AND LOMA LINDA UNIVERSITY.

WHEREAS, a public notice of intention to consider Pre-Annexation and Development Agreement 1995-01 has been provided for in accordance with state law; and

WHEREAS, the City Council finds and declares that the lack of certainty associated with the approval of projects without benefit of a development agreement can result in a waste of resources, escalate the cost of housing and other developments to the consumer, result in added costs to the taxpayer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public; and

WHEREAS, Pre-Annexation and Development Agreement 1995-01 assures the property owner that it may proceed with the project in accordance with the applicable policies, rules and regulations, and subject to conditions of approval; and

WHEREAS, Pre-Annexation and Development Agreement 1995-01 will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development; and

WHEREAS, Pre-Annexation and Development Agreement 1995-01 provides specific guarantees to the City of Banning with regard to facilities, funding, and other contributions by the Developer;

NOW, THEREFORE, the City Council of the City of Banning, California, does ordain as follows:

Section 1.:

In regular session this 11th day of July, 1995, the City Council hereby adopts Pre-Annexation and Development Agreement 1995-01, as set forth in Exhibit "A", attached hereto and by this reference made a part hereof.

Section 2. Severability:

If any section, subsection, sentence clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council of the City of Banning hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or

portions thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3:

The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon this ordinance shall take effect 30 days after adoption and be in force and effect according to law.

PASSED, APPROVED, AND ADOPTED this 11th day of July, 1995.

DON SMITH, Mayor
City of Banning, California

APPROVED AS TO FORM AND
LEGAL CONTENT

John F. Wilson
City Attorney

ATTEST:

City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 13th day of June, 1995, and was duly adopted at a regular meeting of said City Council on the 11th day of July, 1995, by the following vote, to wit:

AYES: Councilmembers Hunt, Lewis, Williams, Mayor Smith

NOES: Councilmember Lucsko

ABSENT: None

ABSTAIN: None

Marie A. Calderon, City Clerk
City of Banning, California

ORD. NO. 1178
EXHIBIT "A"

PRE-ANNEXATION

AND DEVELOPMENT AGREEMENT

NO. 1995-01

THIS PRE-ANNEXATION AND DEVELOPMENT AGREEMENT is made this 19th day of July, 1995, by the CITY OF BANNING, herein called "City" and by LOMA LINDA UNIVERSITY, herein called "University".

WHEREAS, University is the owner of approximately 110 acres of land within the City, described in Exhibit A, attached hereto and incorporated herein by reference, herein called "Parcel A"; and

WHEREAS, University is the owner of approximately 490 acres of land which is contiguous to Parcel A but is not within the current boundaries of the City, described in Exhibit B, attached hereto and incorporated herein by reference, herein called "Parcel B"; and

WHEREAS, Parcel B is within the City's sphere of influence; and

WHEREAS, Parcel B is, together with other property ("other property), being proposed for annexation to the City; and

WHEREAS, the City Council of the City has passed and adopted, on October 22, 1991, a Resolution of Intention to Annex Parcel B and such other property, a copy of which is attached hereto as Exhibit C, and incorporated herein by reference; and

WHEREAS, the City Council of the City has passed and adopted, on August 10, 1993, Ordinance No. 1127, which prezoned Parcel B into areas of R-A One Acre (which allows a minimum

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:
CITY OF BANNING

AND WHEN RECORDED MAIL TO:
MR. JOHN WILSON C/O
CITY OF BANNING
99 E. RAMSEY ST.
BANNING CA 92220

NO RECORDING FEE IN ACCORDANCE WITH GOVT. CODE SECTION 6103

233919

RECEIVED FOR RECORD
AT 8:00 O'CLOCK

JUL 20 1995

Recorded in Official Records
of Riverside County, California
Recorder
Fees $

THIS SPACE FOR RECORDER'S USE ONLY

Pre-Annexation AND Development
TITLE of DOCUMENT
Agreement

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

11/92

PRE-ANNEXATION

AND DEVELOPMENT AGREEMENT

NO. 1995-01

THIS PRE-ANNEXATION AND DEVELOPMENT AGREEMENT is made this 19th day of July, 1995, by the CITY OF BANNING, herein called "City" and by LOMA LINDA UNIVERSITY, herein called "University".

WHEREAS, University is the owner of approximately 110 acres of land within the City, described in Exhibit A, attached hereto and incorporated herein by reference, herein called "Parcel A"; and

WHEREAS, University is the owner of approximately 490 acres of land which is contiguous to Parcel A but is not within the current boundaries of the City, described in Exhibit B, attached hereto and incorporated herein by reference, herein called "Parcel B"; and

WHEREAS, Parcel B is within the City's sphere of influence; and

WHEREAS, Parcel B is, together with other property ("other property), being proposed for annexation to the City; and

WHEREAS, the City Council of the City has passed and adopted, on October 22, 1991, a Resolution of Intention to Annex Parcel B and such other property, a copy of which is attached hereto as Exhibit C, and incorporated herein by reference; and

WHEREAS, the City Council of the City has passed and adopted, on August 10, 1993, Ordinance No. 1127, which prezoned Parcel B into areas of R-A One Acre (which allows a minimum

residential lot size of 40,000 square feet) of 262± acres and of R-A (which allows a minimum residential lot size of 20,000 square feet) of 231± acres, a copy of which is attached hereto as Exhibit D and incorporated herein by reference;

WHEREAS, Parcel A has a zoning designation of R-A which allows a minimum residential lot size of 20,000 square feet; and

WHEREAS, the City has, on February 23, 1995, received approval from the Riverside County Local Agency Formation Commission ("LAFCO") authorizing the City to annex Parcel B into said City's boundaries, which the City is now prepared to do; and

WHEREAS, the City and the University desire to enter into a Pre-Annexation and Development Agreement in accord with the provisions of State of California Government Code, Sections 65864 through 65869.5, inclusive; and

WHEREAS, the University proposes to develop both Parcel A and Parcel B, herein sometimes together called the "Property", to residential uses in accord with the existing General Plan and the existing zoning and prezoning; and

WHEREAS, the parties hereto desire that this Agreement include general terms and conditions relating to the financing of public facilities necessary for the development of Parcels A and B and for the City to provide municipal services to all such property, and the terms and conditions under which and the manner in which the University may be reimbursed its cost of public facilities, when appropriate.

NOW, THEREFORE, FOR A VALUABLE CONSIDERATION, the parties hereto agree as follows:

1. INTEREST OF UNIVERSITY.

The University represents that it is the equitable and legal owner of Parcel A and Parcel B.

2. PLAT OF PARCELS A AND B.

Attached hereto as Exhibit E and incorporated herein by reference is a Plat Map identified as "Proposed City of Banning Annexation Area". Said Plat shows the location of Parcel A (so identified) and shows the location of Parcel B, which is identified on said Plat as Parcel Numbers 9, 11, 12, 13, 14, 20, 21, 22, 37, 38, 39, 40, 41, 42, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 55.

3. CURRENT ZONING

Attached hereto as Exhibit F and incorporated herein by reference is a Plat Map identified as "Approved City of Banning Pre-Zoning". Said Plat Map also shows Parcel A. Said Plat shows the 262± acres of the University's property prezoned R.A. One Acre and the 231± acres of the University's property pre-zoned R.A.

4. ANNEXATION AND ZONING MAINTENANCE.

a. Immediately following approval by the parties hereto of this Pre-Annexation and Development Agreement, the City shall complete the annexation of Parcel B in accord with the LAFCO approval at the University's expense.

b. The City shall maintain zoning for the Property permitting those land uses allowed in the RA-1 Acre Zone and R-A Zone District as of the date hereof.

5. DEVELOPMENT.

a. All Parcels or portions thereof which are zoned R-A

One Acre may be developed as single family residential areas having a minimum lot size of 40,000 square feet. All buildings in these areas shall be one and two story structures having a maximum height of 30 feet.

b. All Parcels or portions thereof which are zoned R-A may be developed as single family residential areas having a minimum lot size of 20,000 square feet. All buildings in these areas shall be one and two story structures having a maximum height of 30 feet.

c. The University shall make an irrevocable offer of dedication of a 1 (one) acre police/fire station site to the City without credit against developer fees or cost to the City. The offer shall be made a condition of the first tentative parcel or subdivision map for the Property. The location of such site shall be as agreed upon by the University and the City.

d. The City may, in connection with approval of development of the Property, impose upon the University reasonable conditions relating to water supply, including but not limited to requiring transfer to the City of water stock appurtenant to the Property, if any, and water resources lying on or under the Property, as well as requiring the University to establish new wells or other water facilities as necessary to serve the Property. Such wells shall be located as reasonably designated by the City.

e. The University shall cooperate with the owner of the neighboring land (Dickinson Parcels) to plan a sewer connection from Sunset Avenue across University Land, the Property, to such neighboring land. University shall provide a public easement for

sewer pipeline purposes, at a location jointly determined by City and the University which will not unreasonably interfere with the University's use of its property, at no cost to the City, to allow the adjacent property (now owned by Dickinson family) sewer pipeline access to Sunset Avenue.

f. The City shall, upon request of the University, redesignate the Property as a Specific Plan Overlay Development Zone ("SPOD Zone"). The SPOD Zone requires the University, prior to development of the property in accord with a Specific Plan, to prepare and process a "Specific Plan" detailing the permitted uses of the Property. If the University prepares a Specific Plan it shall provide, inter alia, for the following:

1) The University shall pay all fees required by the City in connection with processing of such a Specific Plan, including, if necessary, the cost of any additional environmental studies.

2) The Specific Plan may provide for clustering of residential units so as to allow as much open and/or recreational spaces as reasonably possible.

3) The Specific Plan shall provide no more than 944 residential units on all of Parcels A and B. Such residential buildings shall be one and two story structures having a maximum height of 30 feet. The minimum interior square footage of all such residential units shall not be less than 1,200 nor more than 5,000.

4) The Specific Plan shall reserve a 10 acre elementary school site for dedication to the Banning Unified School District without cost to the District in the event the

District agrees to accept such school site in full and complete mitigation for the impacts of such Specific Plan development project.

5) The Specific Plan shall include the irrevocable dedication of a 1 acre police/fire station site to the City without credit against developer fees or cost to the City. The location of the site shall be as agreed upon by the City and the University.

6) The specific plan may satisfy its public park requirement by one of the following ways:

a) Acquisition, improvement and dedication to the City of a 7.5 acre expansion of the City's Lions Park in accord with a design as jointly determined by City and the University. Such improvements shall include grass, and other trees and plants, together with an irrigation system for such 7.5 acres and construction of two little league ball diamonds with a soccer field overlay and two outdoor basketball courts. Said acquisition, improvements and dedication shall be deemed complete satisfaction by the parties of the University's public park obligation due in connection with such Specific Plan project; or

b) Improvement and dedication to the City of 7.5 acres within the project area, without cost to City, at a location and in accord with a design as jointly determined by City and the University. Said improvements shall include amenities associated with neighborhood parks, i.e. grass, trees and plants, together with an irrigation system, picnic area, tot lot and rest room. Said improvement and dedication shall be deemed complete satisfaction by the parties of the University's

public park obligation due in connection with such Specific Plan project; or

c) Transfer to City, without cost to City, of 15 acres of public park land, within the project area, at a location as jointly determined by City and the University. Said transfer shall be deemed complete satisfaction by the parties of the University's public park obligation due in connection with such Specific Plan project.

7) The Specific Plan may include an 18 hole regulation golf course. If such golf course is so provided, it shall, for a minimum of 10 years following its opening for play, be open to players who are required to pay only a daily play fee, i.e., "public play". During such time, if usage of the course becomes crowded and play must be allocated, the public play portion of the usage may be restricted to two days per week, which shall be reserved exclusively for such play, if necessary. Water for irrigation of said golf course may be limited by City to reclaimed or other source of water if such water is available from City facilities. University shall be responsible for all costs of the extension of any reclaimed water line to the golf course.

8) It is the intention of the parties to this Agreement that the use of a Specific Plan for the Property will not allow more than 944 residential units on the Property. It is the further intention of the parties that the University will, subject to its own planning and marketing judgment, attempt to place said number (944) of residential units on the Property.

9) The Specific Plan, subdivision map and any other

related documents pertaining to the Property shall provide for access to the Property in a manner consistent with the Circulation Element of the General Plan of the City and consistent with any congestion management plan applicable to the project at either the local, regional, state or federal level. The University shall be responsible for its pro rata share of any required circulation improvements and may be required to oversize such improvements, subject to later reimbursement for any costs in excess of its pro rata share, from any subsequently approved subdivisions and developments benefitting thereby.

10) The City may, in connection with approval of development of the Property, impose upon the University reasonable conditions relating to water supply, including but not limited to requiring transfer to the City of water stock appurtenant to the Property, if any, and water resources lying on or under the Property, as well as requiring the University to establish new wells or other water facilities as necessary to serve the Property. Such wells shall be located as reasonably designated by the City.

11) The University shall cooperate with the owner of the neighboring land (Dickinson Parcels) to plan a sewer connection from Sunset Avenue across University Land, the Property, to such neighboring land. University shall provide a public easement for sewer pipeline purposes, at a location jointly determined by City and the University which will not unreasonably interfere with the University's use of its property, at no cost to the City, to allow the adjacent property (now owned by Dickinson family) sewer pipeline access to Sunset Avenue.

12) The City hereby declares and finds that a Specific Plan for the Property, having a maximum number of 944 residential units thereon, is and will be consistent with the General Plan and zoning designations for the property.

6. ENVIRONMENTAL REVIEW.

Environmental review is required for this Agreement. All terms, covenants and provisions of this Agreement shall be subject to such conditions and mitigation as shall be required as a result of such environmental review. The above-stated requirements supersedes any condition or covenant contained in this Agreement, or any attachment hereto, which is inconsistent with this provision. The City shall process such environmental and land use documents to a final decision, commencing whenever the University's application for any given approval is declared complete and is accepted by the City. All costs for associated environmental studies and review thereof shall be paid by the applicants for the application being reviewed. There is hereby reserved to the University the right to refrain from proceeding with development of the Property, upon a determination by the University, in its sole discretion, that any environmental mitigation or condition makes the project infeasible, or for any other reason.

7. CITY TO PROVIDE MUNICIPAL SERVICES.

Upon payment by University (or construction by it in lieu of payment) of all fees specified in this Agreement, the City shall provide to the University's Property all necessary municipal services as may be required by development of such Property either under the zoning described in Paragraph 4, above,

or the Specific Plan described in Paragraph 4, above. Said municipal services shall include but not be limited to domestic water service, sanitary sewer service, police and fire protection. University shall be responsible for all costs of extension of service lines, water and sewer mains, etc. to the Property as provided in the existing City rules for extension of service to subdivisions. No right to actual use of any existing capacity shall be deemed to have accrued until the approval of one (1) or more tentative subdivision maps for the Property, and then only as to such approved maps.

8. REIMBURSEMENT AGREEMENT.

In the event the University is required by City to build public facilities to serve its development which by virtue of their location, size and/or capacity are capable of serving properties other than the University's, the prorata cost thereof in excess of the University's project needs shall be repaid to the University pursuant to a reimbursement agreement, the standard form of which is attached hereto as Exhibit G and incorporated herein by reference.

9. LAND USE REGULATIONS.

The rules, regulations and official policies governing the uses of the University's Property and the density of development thereof, as set forth herein, together with the design, improvement and construction standards and specifications applicable to such development are those rules, regulations and official policies of the City which are in force at the time of the execution of this Agreement (the "Existing Land Use Rules"). The Existing Land Use Rules are listed in Exhibit "H" attached

hereto and incorporated herein by reference.

This Agreement precludes the City in subsequent actions applicable to the University's Property from imposing new or different fees or increasing existing fees (except as set forth in Paragraph 10, below) which the University may be required to pay as a condition to obtaining approval of Specific Plans, tentative tract maps, final tract maps, conditional use permits, variances, building permits, certificates of occupancy, or other approvals related to the development of the University's Property or the construction of its project, collectively referred to herein as "Development Fees", and this Agreement precludes the City from adopting and applying new rules, regulations and policies to the University's project which prevent the development of the University's Property as contemplated by this Agreement. Further, this Agreement does not prevent the City from denying or conditionally approving any subsequent development project application by the University with respect to property not included within Parcel A or Parcel B on the basis of either existing or new rules, regulations and policies.

Pursuant to Section 65865.2 of the Government Code, the City shall not prevent, delay nor otherwise interfere with the development of the University's property for the uses and to the density or intensity of use set forth in this Agreement by any discretionary action, including, but not limited to, the enactment after the date of this Agreement of any ordinance or resolution or other action by the City Council, including, but not limited to, any ordinance adopted through the initiative process, which would be more restrictive than the Existing Land

Use Rules or which would impose limitations or restrictions on the uses as set forth in this Agreement, or the density or intensity of use thereof, or which would limit or control the rate, timing or sequence of development of the University's property.

10. FEES AND CHARGES.

The University shall pay all Development Fees of the City which are reasonably and uniformly required as a condition to the subdivision and development of property and the fees for the provision of municipal services, including, but not limited to, such fees and charges as may be established, from time to time, by the City Council of the City, in compliance with all applicable requirements of the Constitution and laws of the State of California, for deferring the cost of the planning, design, construction, installation and acquisition of municipal facilities which are necessary for the City to provide municipal services to the property, as are in effect as of the date of this Agreement. The University shall pay all such fees and charges when they are due as prescribed by the applicable provision of the City's Municipal Code or the ordinances or resolutions establishing the fees and charges and in the amounts thereof, as the same may be modified from time to time by subsequent action of the City Council, it being expressly agreed by the City and the University that Development Fees may not be increased during the term of this Agreement, as to the University, in a percentage amount each year in excess of the percentage increase, if any, in the Engineering News-Record-Construction Cost-Cost Index between the date of this Agreement and each such subsequent year (based

upon the January index thereof).

11. AMENDMENT OR CANCELLATION OF AGREEMENT.

This Agreement may be amended or cancelled in whole or in part only by mutual consent of the parties and in the manner provided for in Government Code Sections 65868, 65867 and 65867.5. An express repudiation, refusal or renunciation of this Agreement which is signed by the University, however, is sufficient to terminate this Agreement and a hearing on the matter shall not be required.

12. NOTICES TO MORTGAGEES UPON REQUEST; RIGHT TO CURE.

If the City receives notice from a Mortgagee requesting a copy of any notice of default given the University hereunder and specifying the address for service thereof, then the City shall deliver to such Mortgagee, concurrently with service thereof on the University, any notice given to the University with respect to any claim by the City that the University is in default under this Agreement. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (90) days after the receipt of such notice from the City to cure or remedy, or to commence to cure or remedy, the such default claimed or the areas of noncompliance set forth in the City's notice. If such default or such noncompliance is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall thereafter remedy or cure such default or noncompliance within ninety (90) days after obtaining possession. If any such default or noncompliance cannot, with diligence, be remedied or cured within

such ninety (90) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such default or noncompliance if such Mortgagee commences such cure during such ninety (90) day period, and thereafter diligently pursues completion of such cure to the extent possible. Notwithstanding the foregoing, nothing contained in this Development Agreement shall be deemed to permit or authorize any Mortgagee to undertake or continue construction or completion of any improvements comprising the University's project (beyond the extent necessary to conserve or protect improvements or construction already made) without first having expressly assumed the University's obligation hereunder in the manner specified in this Section.

13. OTHER DEVELOPMENT PROPOSALS.

Nothing herein contained shall prevent the City and the University from mutually agreeing to a different plan for development of the property or portions thereof.

14. WILDFIRE PROTECTION COSTS.

The University shall pay upon request by City, the wildfire protection costs incurred by City from the State of California Department of Forestry and Fire Protection regarding the University's Property until such time as City is no longer obligated to pay such costs.

15. PERIOD REVIEW OF COMPLIANCE WITH AGREEMENT.

a. This Agreement shall be subject to annual review, pursuant to California Government Code Section 65865.1. Within thirty (30) days following each anniversary of the effective date hereof, the University shall submit to the Community Development

Director of the City written documentation demonstrating good-faith compliance with the terms of this Agreement ("Annual Report"), to the extent that the University has taken or is required to take any action pursuant to this Agreement.

b. The Annual Report and supporting documents shall describe (i) any permits or other approvals which have been issued or for which application has been made and (ii) any development or construction activity which has commenced or has been completed since the date hereof or since the last annual review. Said Director shall review all the information contained in such report in determining the University's good faith compliance with this Agreement.

c. The City does not waive any claim of defect in performance by the University if, at the time of an annual review, the City does not propose immediately to modify or terminate this Agreement.

16. VIOLATIONS; DISPUTE RESOLUTION.

a. Violation by University.

1) The University shall be deemed in violation of the terms of this Agreement upon the occurrence of one or more of the following events or conditions:

a) If a material warranty, representation or statement made or furnished by the University to the City as a partial inducement to the City to enter into this Agreement proves to be false or to have been false when it was made in any material respect; or

b) If a finding and determination is made by the City following a periodic review pursuant to Section 16,

above, upon the basis of substantial evidence, that the University has not complied in good faith with one or more of the terms or conditions of this Agreement.

2) If the City's Community Development Director believes the University to be in violation of this Agreement, pursuant to Section 17.a.1), above, said Director shall give the University thirty (30) days written notice specifying the nature of the alleged violation and, when appropriate, the manner in which the violation may be satisfactorily cured. Failure or delay in giving notice of a violation shall not constitute a waiver of such violation.

3) The University may appeal the said Director's allegation of violation by filing with the City Clerk, within the thirty (30) day cure period, a notice of appeal. The University shall be given an opportunity to be heard at a regularly scheduled meeting of the City Council. If, after such hearing, it is the finding of the City Council that a violation has occurred and is continuing, the University shall be given a maximum of sixty (60) days within which to cure such violation. At the next City Council meeting following expiration of the period allowed for curing the violation, the City Council shall set forth by motion or resolution its determination as to (i) the continuation of the violation and (ii) any action to be taken, which action may include modification or termination of this Agreement. Any action to terminate shall be in the form of a resolution and shall be supported by written findings.

4) After proper notice and expiration of the thirty (30)-day cure period without appeal, cure or commencement of

substantial effort toward a cure, the City may take unilateral action to terminate or amend this Agreement, in accordance with the applicable provisions of state law.

b. Violation by City.

1) The City shall be deemed in violation of the terms of this Agreement upon failure of the City to carry out any of its obligations pursuant to this Agreement.

2) If the University believes the City to be in violation of this Agreement, pursuant to Paragraph 17.b.1), above, the University shall promptly notify the City, through its Community Development Director, to that effect, setting forth the grounds upon which a violation is claimed, facts in support of such grounds and the means through which such violation may be cured. The said Director shall have thirty (30) days following the date of receipt of the notice within which to take action to deny the claim, cure the violation or undertake substantial action toward the cure.

3) If the action of said Director is unsatisfactory to the University, the University may make an appeal to the Planning commission, provided that, within ten (10) days following the date of receipt of the notice of denial of the claim, or within ten (10) days following the date of expiration of the cure period described in the preceding paragraph, whichever occurs first, the University file a notice of appeal with the Secretary of the Planning Commission. The Planning Commission thereafter shall hold a hearing at its next regularly scheduled meeting, which need not be a public hearing, at which the University may present information regarding the alleged

violation. Based upon the information presented at this hearing, the Planning Commission shall make a determination as to whether the City is in violation of this Agreement, as alleged by the University.

4) The determination of the Planning Commission shall be final unless, within ten (10) days following the date of receipt of notice of such determination, the University files with the City Clerk a notice of appeal to the City Council. The City Council shall, within thirty (30) days after the date of receipt of such written appeal, hold a hearing at which it shall review the determination of the Planning Commission and receive such additional information as the University and the Community Development Director may submit. The City Council shall thereafter have thirty (30) days within which to make a determination of whether the City is in violation hereof, unless the time is otherwise extended by agreement of the Parties. If the City Council fails to make a determination within such time, the findings of the Planning Commission shall stand.

c. Subject to the prior exhaustion of all administrative remedies set forth above, in addition to any other rights or remedies, either Party may institute legal action to cure, correct or remedy any violation, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default, or to obtain any other remedies consistent with the purposes of this Agreement. Notwithstanding any other provisions herein to the contrary, (i) neither Party shall have any liability hereunder for contractual damages, (ii) each Party shall only be entitled

to specific performance by the other Party of its obligations under this Agreement, and (iii) each Party shall otherwise be subject only to liability for violation of a statutory or constitutional right of the other Party which exists independent of this Agreement. Any such legal action shall be brought in the Superior Court of the County of Riverside, State of California.

17. CONFLICT WITH STATE OR FEDERAL LAWS.

In the event that any state or federal laws or regulations, enacted after the effective date of this Agreement, prevent or preclude compliance by either Party with any provisions hereof, such provisions shall be modified or suspended to the extent necessary to comply with such state or federal laws or regulations.

18. RELATIONSHIP OF PARTIES.

It is understood that the contractual relationship between the City and the University hereunder is such that the University is not an agent of the City.

19. DURATION OF AGREEMENT.

This Agreement shall become effective upon the adoption by the City Council of the City of an enabling Ordinance. The duration of this Agreement shall be for a period of twenty-five (25) years from the date the annexation described above is completed, and final, or until completion of construction of the University's project, if that occurs before the expiration of said twenty-five (25) year period.

During the term of this Agreement, the University shall have a legally recognized vested right to obtain the regulatory approvals provided for herein and to carry out development of the

Property in accordance herewith. The timing of any development to be carried out on the Property shall be at the sole discretion of the University.

20. TERMINATION UPON FAILURE OF ANNEXATION.

In the event the annexation of Parcel B to the City has not been completed within eighteen (18) months from the date hereof, this Agreement shall terminate and neither party shall thereafter have any obligations to the other.

21. EMINENT DOMAIN.

City acknowledges that University may be prevented, because of circumstances beyond its control, from acquiring real property or property rights necessary to carry out or implement the terms of this Agreement. In such case, if City can make the findings of public necessity as required by state law, City agrees to use its power of eminent domain to condemn and acquire any such property or property right not held by University necessary to implement and carry out the terms and purposes of this Agreement. University agrees to pay all land acquisitions costs and attorneys' fees associated with such condemnation action.

22. COMPLETE AGREEMENT; SEVERABILITY; INVALIDITY.

a. This Agreement represents the complete understanding between the Parties and supersedes all prior agreements, discussions and negotiations relating to the subject matter hereof. No amendment, modification or cancellation of this Agreement (other than pursuant to Section 12, above) shall be valid unless adopted in accordance with California Government Code Section 65868, and then evidenced in writing and executed by the Parties.

b. If any provision of this Agreement is finally determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby and shall remain in full force and effect, unless such invalidation renders any remaining provision impossible or impractical to enforce.

c. Additionally, if this Agreement or any provision hereof is determined to be invalid or unenforceable, then any provision of the Annexation Agreement relating to the same or substantially similar subject matter shall remain in full force and effect.

23. BINDING EFFECT; ASSIGNMENT

a. This Agreement shall bind, and inure to the benefit of, the respective Parties and their successors in interest, including but not limited to their heirs, representatives, assigns, partners and investors.

b. The University shall have an unrestricted and unqualified power to assign and transfer all or portions of its rights and obligations under this Agreement to any other person or entity, at any time during the effective period hereof, provided that such assignment and transfer shall occur in connection with the sale, hypothecation or other transfer of an interest in the Property or a portion thereof. The University shall give the City notice of any such assignment and transfer and the resulting assignee shall provide the City with notice acknowledging its acceptance of its obligations to the City hereunder as a successor in interest to the University. Upon such assignment and transfer, the University shall be relieved of

its rights and obligations hereunder, to the extent that such have been specifically transferred to and accepted by an assignee. In the absence of such notices to the City, the assignment shall be void, and the University shall continue to be bound by the provisions of this Agreement.

24. ENFORCEMENT.

a. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of California and any applicable laws of the United States of America.

b. Unless amended, modified or cancelled as provided in Sections 12 and 23, above, or pursuant to Government Code Sections 65865.1, 65865.3, 65868 or 65869.5, this Agreement shall be enforceable by either Party, notwithstanding any change in any applicable general or specific plan, zoning, subdivision or other applicable law or regulation.

c. In the event of any action or proceeding brought by either Party against the other to enforce the provisions of this Agreement, the prevailing Party shall be entitled to recover reasonable costs and expenses, including attorneys' fees, incurred in connection therewith.

d. In the event of any action or proceeding brought by a third party, whether a private or governmental person or entity, challenging the validity of this Agreement or any provisions hereof, the Parties shall cooperate in defending against such challenge. The University shall pay all legal expenses associated with such defense. However, the University may determine, in its sole discretion, that such defense shall not be undertaken or continued. Upon making such determination,

the University shall, before withdrawing from the action, notify the City of its intent. The City shall thereafter, at its first regular meeting following date of such notice, consider its options with respect to the pursuit of the action. If it is the determination of the City to continue its advocacy in the action, the University shall not, after date of such decision be liable hereunder for payment of any costs incurred by City as a result of the City's decision.

With respect to any ongoing litigation in which the City and the University are mutually engaged, during the entire course of any such challenge, including any review up to a court of final jurisdiction, this Agreement shall remain in full force and effect.

25. WAIVERS AND DELAYS.

a. Failure by either Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or failure by either Party to exercise its rights upon a default by the other Party, shall not constitute a waiver of any right to demand strict performance by such other Party in the future.

b. Nonperformance by either Party shall not be excused because of a failure of a third person, except as provided in Subsection 26.c., below.

c. Neither Party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes or other labor difficulties, government regulations or other causes beyond

the control of the Party claiming the force majeure. If any such event shall occur, the term of this Agreement and the time for performance by the University of any of its obligations hereunder shall be extended by the period of time that such events prevent them from proceeding with the development of the Property.

26. NOTICES.

Any notice, request, instruction or other formal communication by one Party to the other shall be in writing and shall be effective only when either (i) personally delivered to the addressee at the appropriate address set forth below (in which event such communication shall be deemed effective upon actual delivery), or (ii) sent by registered or certified United States Postage Service mail, prepaid and return receipt requested (in which event such notice shall be deemed effective on the second day following deposit of such communication in the mail), addressed as follows:

If to City:

City of Banning
Attention: City Manager
99 East Ramsey Street
Banning, CA 92220
Tel. (909) 922-0300

If to University:

Loma Linda University
Loma Linda, CA 92350

Attn: President

Either Party may change the address set forth above by giving written notice of such change, in the manner prescribed in this Section.

27. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and which shall be deemed a

single Agreement.

28. RECORDATION OF AGREEMENT.

Within ten (10) days following the effective date of this Agreement, the City Clerk shall record a fully executed copy hereof with the County Recorder of the County of Riverside.

IN WITNESS WHEREOF, the Parties have executed this Agreement, to be effective as of the date set forth in the first paragraph hereof.

"University"

LOMA LINDA UNIVERSITY

By: Daniel H. Pursley
Title: VICE PRESIDENT

By: Robert W. Frost
Title: Asst. Secretary

"CITY"

CITY OF BANNING

By _____
Don E. Smith, Mayor

APPROVED AS TO LEGAL FORM AND CONTENT:

_____
John F. Wilson
City Attorney

ATTEST:

Marie A. Calderon
Marie A. Calderon
City Clerk

DEY/bls#31
BANNING.AG2

233319

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT No. 5907

State of California

County of San Bernardino

On July 18, 1995 (DATE) before me, Betty L. Shepherd, (NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC")

personally appeared Robert W. Frost, (NAME(S) OF SIGNER(S))

☒ personally known to me - **OR** - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

BETTY L. SHEPHERD
COMM. #993699
NOTARY PUBLIC - CALIFORNIA
RIVERSIDE COUNTY
My Commission Expires May 5, 1997

WITNESS my hand and official seal.

Betty L. Shepherd
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

_____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

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233919

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT No. 5907

State of California

County of San Bernardino

On July 18, 1995 (DATE) before me, Betty L. Shepherd, (NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC")

personally appeared Donald G. Pursley, (NAME(S) OF SIGNER(S))

☒ personally known to me - **OR** - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Betty L. Shepherd
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

_____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL

☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
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INDEX

EXHIBITS TO AGREEMENT

A - Description of Parcel A

B - Description of Parcel B

C - Resolution of Intention to Annex

D - Ordinance No. 1127 (Pre-zoning)

E - Plat Map - Parcels

F - Plat Map - Prezoning

G - Reimbursement Agreement

H - Existing Land Use Rules

EXHIBIT A

DESCRIPTION OF PARCEL A

Assessor's Parcel No. 535-070-36

EXHIBIT B

DESCRIPTION OF PARCEL B

Plat Parcel Number (See Exhibit D)	Assessor's Parcel Number
9	531-060-008
11	531-060-014
12	531-060-015
13	531-060-016
14	531-060-017
20	531-060-032
21	531-060-033
22	531-060-034
37	531-070-002
38	531-070-004
39	531-070-006
40	531-070-007
41	531-070-008
42	531-070-009
45	531-070-012
46	531-070-013
47	531-070-014
48	531-070-015
49	531-070-016
50	531-070-017
51	531-070-018
52	531-070-019
53	535-060-002
55	535-060-005

233919

EXHIBIT C

RESOLUTION OF INTENTION

233919

RESOLUTION 1991-20

A RESOLUTION OF THE CITY COUNCIL OF BANNING, CALIFORNIA, CONSENTING TO INITIATE PROCEEDINGS TO ANNEX CERTAIN UNINHABITED REAL PROPERTY TO THE CITY OF BANNING (CITY ANNEXATION #19)

WHEREAS, the City Council has at its regularly scheduled meeting on February 12, 1991, examined the proposed annexation of approximately 979± acres of unincorporated land within the City's Sphere of Influence to the City of Banning; and

WHEREAS, the City of Banning desires to initiate proceedings pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, commencing with Section 56000 of the California Government Code, for the annexation; and

WHEREAS, the territory proposed to be annexed is uninhabited, and a graphic of the boundaries of the territory is set is set forth in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, the City Council has determined that the site proposed for annexation is adjacent to and strongly tied to the City of Banning; and

WHEREAS, the proposed annexation would result in the orderly extension of the boundaries of the City of Banning; and

WHEREAS, the owners of said uninhabited real property have expressed their desire to annex to the City of Banning; and

NOW, THEREFORE, be it resolved that the City Council hereby consents to the commencement of proceedings to annex this uninhabited property, described in attached Exhibit "A", located in the County of Riverside, California.

233919

PASSED AND ADOPTED this 12th day of February, 1991.

Robert Hanson, Mayor

ATTEST:

Lucille M. Elizondo
City Clerk of City of Banning

CERTIFICATION

I, LUCILLE M. ELIZONDO, City Clerk of the City of Banning, do hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 12th day of February, 1991, by the following vote, to wit:

AYES: Councilmembers Garcia, Holbert, Reynolds, Williams, Mayor Hanson

NAYS: None

ABSENT: None

ABSTAIN: None

Lucille M. Elizondo, City Clerk
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

JOHN WILSON, CITY ATTORNEY
City of Banning

:04/rc2

EXHIBIT D

ORDINANCE NO. 1127

PREZONING

233919

ORDINANCE NO. 1127

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE ASSIGNATION OF PRE-ZONING DESIGNATIONS OF RA, RA-ONE-ACRE, AND RA-TWO-ACRE, ON CERTAIN PROPERTIES INCLUDED IN ANNEXATION #19 AS DESCRIBED IN EXHIBIT "A" ATTACHED HERETO.

WHEREAS, the City Council at its meeting on February 12, 1991, passed and adopted Resolution No. 1991-20, "A Resolution of the City Council of Banning, California, consenting to initiate proceedings to annex certain uninhabited real property to the City of Banning (City Annexation #19)"; and,

WHEREAS, the Local Agency Formation Commission (LAFCO) requires that the proposed territory be pre-zoned by the municipality initiating annexation; and,

WHEREAS, at the direction of the City Council of the City of Banning, the staff of the Planning Department has studied, considered, and developed proposals regarding the pre-zoning of said properties for annexation; and,

WHEREAS, after reviewing existing land use, general plan designations and zoning, and determining the RA, RA-One-Acre, and RA-Two-Acre zone districts are in consonance with same;

NOW, THEREFORE, the City Council of the City of Banning ordains that the pre-zoning of approximately 987 acres to the City's RA, RA-one acre, RA-two acre districts on the property, located in the County of Riverside, California shall be as set forth in the attached graphic designated Exhibit"A".

Section 1:

The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon this ordinance shall take effect 30 days after adoption and be in force and effect according to law.

PASSED, APPROVED, AND ADOPTED this 10th day of August 1993, at Banning, California.

Gary Reynolds, Mayor
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

John F. Wilson
City Attorney

ATTEST:

Lucille M. Elizondo
City Clerk

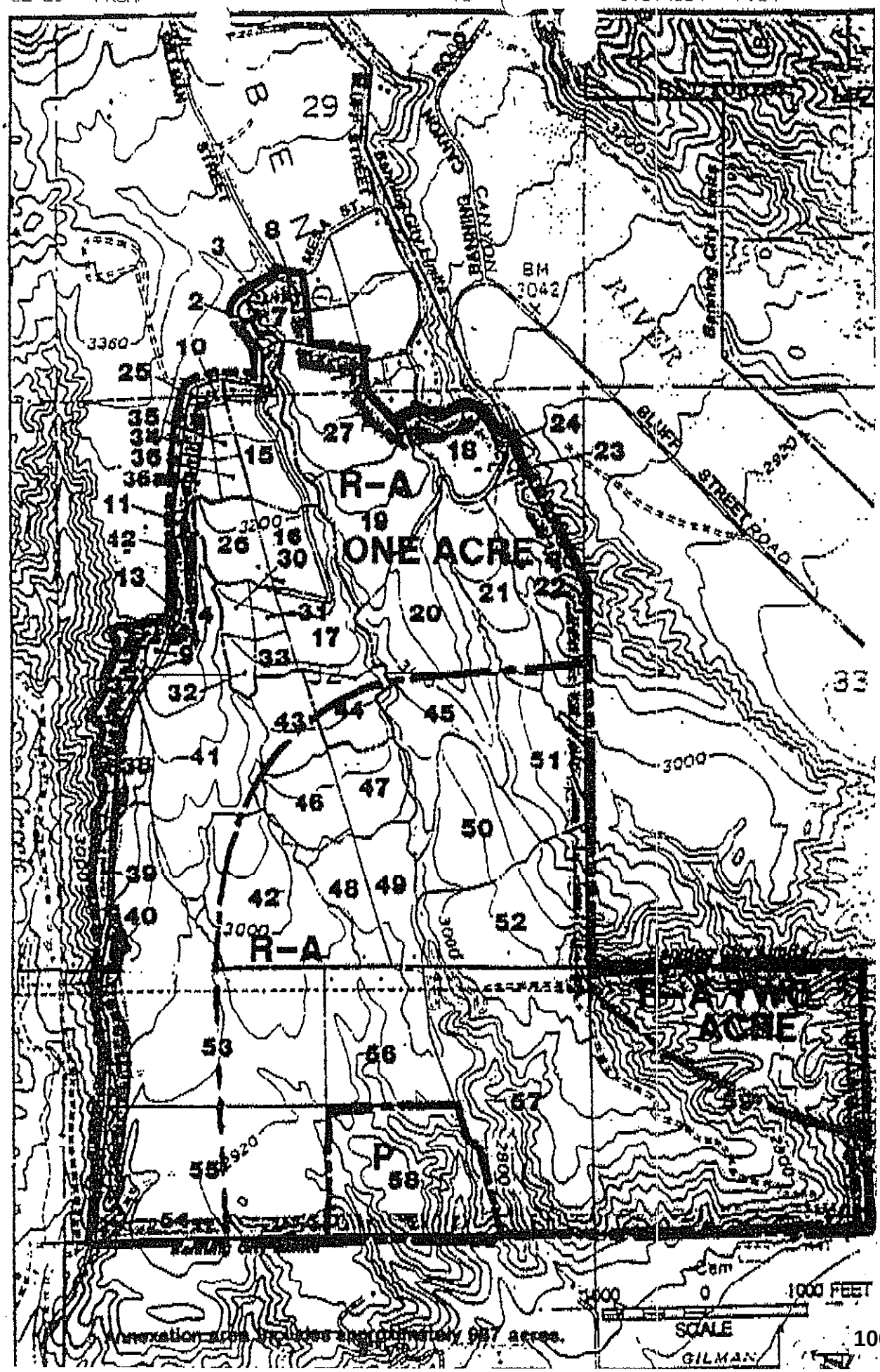
CERTIFICATION:

I, Lucille M. Elizondo, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance was duly introduced at a result meeting of the City Council of the City of Banning, held on the 27th day of July, 1993, and was duly adopted at a regular meeting of said City Council on the 10th day of August, 1993, by the following vote, to wit:

AYES: Councilmembers Garcia, Lewis, Smith, Williams, Mayor Reynolds
NOES: None
ABSENT: None
ABSTAIN: None

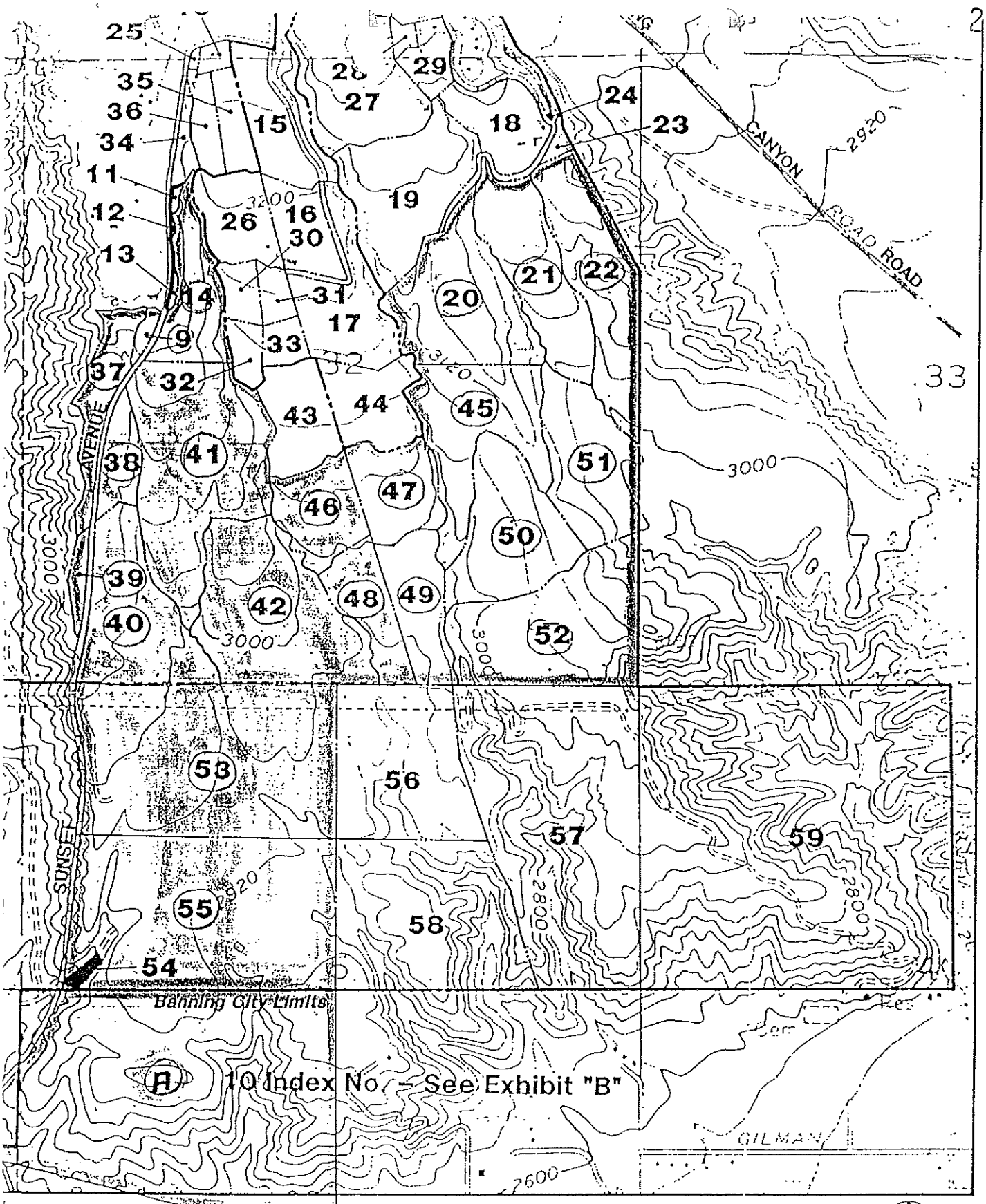
Lucille Elizondo, City Clerk
City of Banning, California

233919



EX "A"

Annexation area includes approximately 997 acres.



ENGINEERING ASSOCIATES

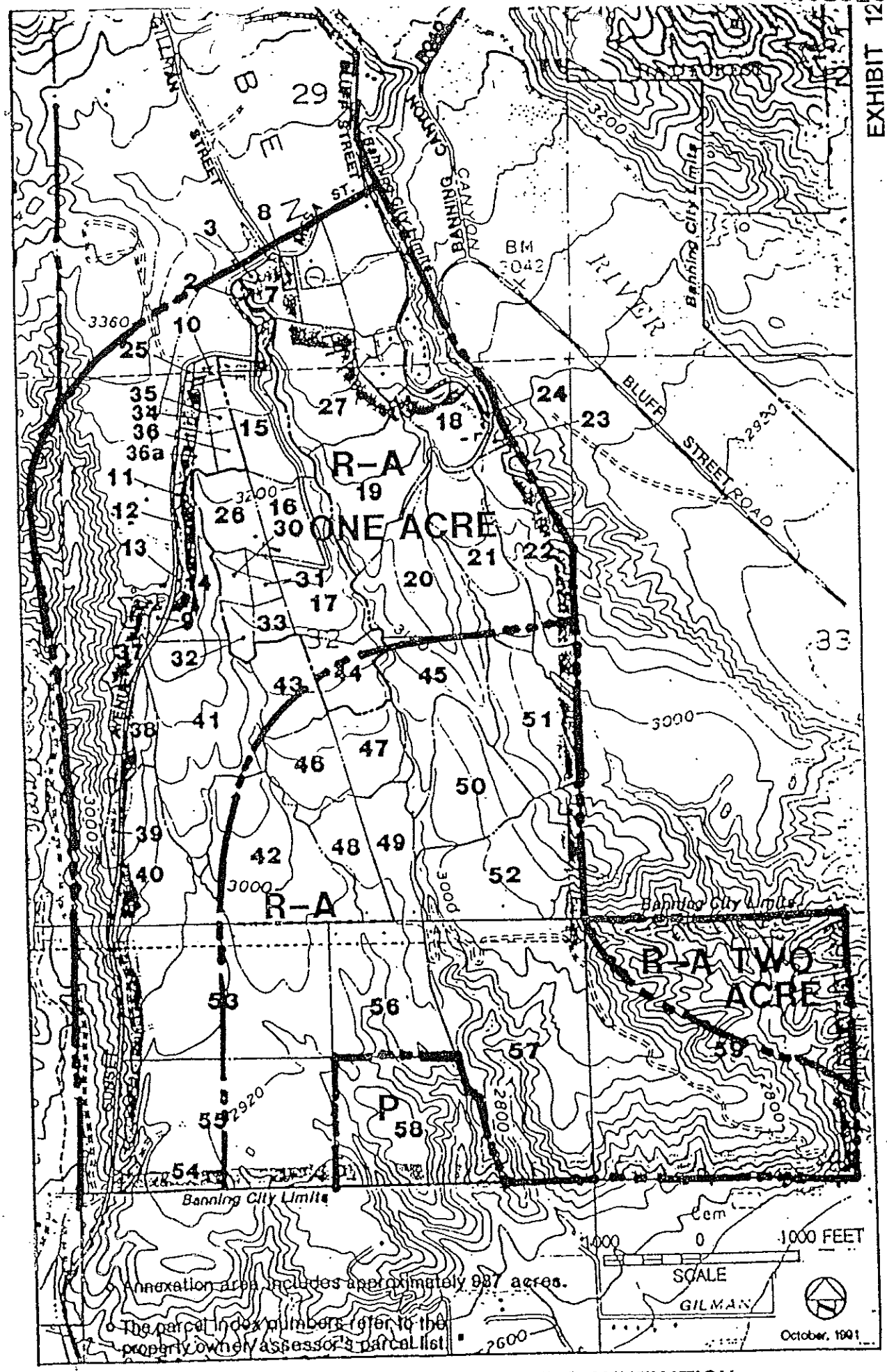
Proposed City of Banning Annexation Area

Exhibit "E"

No Scale

January 11, 1991

EXHIBIT 12



PROPOSED CITY OF BANNING ANNEXATION

EXHIBIT G

REIMBURSEMENT AGREEMENT

REIMBURSEMENT AGREEMENT

FOR CONSTRUCTION OF PUBLIC FACILITIES

THIS REIMBURSEMENT AGREEMENT FOR CONSTRUCTION OF PUBLIC FACILITIES, herein called "Agreement", is made this ____ day of _____, 199__ by the City of Banning, herein called "City" and by _____, herein called "Developer".

WHEREAS, Developer is engaged in the development of certain real property located in the City, known as _____ _____, herein called the "Project"; and

WHEREAS, the development of the Project requires the construction of certain public facilities for _____ _____ _____;

and

WHEREAS, City has requested that said public facilities be constructed at a location, size and/or at a capacity that exceeds the requirements for the Developer's project; and

WHEREAS, the City and the Developer desire to provide reimbursement to the Developer for its costs caused by compliance with the City's request, all in accord with the terms and conditions of this Agreement.

NOW, THEREFORE, FOR A VALUABLE CONSIDERATION, the parties hereto agree as follows:

1. CONSTRUCTION OF PUBLIC FACILITIES.

The Developer shall, at its sole cost, construct those certain public facilities, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

2. DEDICATION TO CITY.

Upon completion of such construction and acceptance thereof by City, Developer shall dedicate said public facilities to City at no cost to City.

3. ACCOUNTING OF CONSTRUCTION COSTS.

During the construction by Developer of said public facilities, Developer shall keep and maintain generally acceptable accounting records regarding its costs in construction of said public facilities. Said costs shall include, but not be limited to, all labor and material costs, all contractors and subcontractors costs, all equipment use and/or rental costs, all fees and other costs paid to public entities and public utilities, all design and engineering costs, all legal consulting costs, all financing and interest costs for the funds expended for such construction during the period of such construction up to the date said public facilities are actually transferred to the City, and a sum equal to 30% of said total costs for overall supervision and overhead costs of Developer. Upon transfer of said public facilities to City, Developer shall submit, in writing, by signed affidavit, a final accounting of all such costs.

4. USE BY OTHERS.

City agrees that it shall not allow any persons or entities, except Developer and its designees, to connect to and/or use said public facilities without compliance with the reimbursement provisions of this Agreement. The term "any persons or entities", shall include the City and all other public agencies.

The City further agrees that it shall not allow any persons or entities to construct and use any public facilities in

lieu of using the public facilities which are the subject of this Agreement if the public facilities which are the subject of this Agreement can reasonably be used by such other persons or entities in connection with the development, improvement and/or use of their real property.

5. DETERMINATION OF COSTS TO OTHERS.

At such time as such other persons or entities are authorized to connect to and/or use said public facilities, City shall determine, after consultation with Developer and review of the costs described in Section 3., above, the amount of such cost which shall be paid by such other persons or entities.

Such payment shall be set at the same percentage of the total costs as is equal to the percentage of usage needed by such persons or entities in said public facilities, plus a sum equal to 10% thereof (compounded annually) from the date such public facilities were transferred to the City and the date the City authorizes connection and/or use of said public facilities by said persons or entities.

The authorization to connect and/or use said public facilities by City shall be deemed to occur when the City gives final approval to a subdivision or parcel map or lot line adjustment, or at such other time as connection and/or use is granted by City, whichever event occurs first.

The total amount to be paid by such persons or entities shall not, however, exceed the amount (to be determined by an engineer licensed in the discipline to be evaluated and approved by the City) which it would then cost to construct public facilities to provide the same service to them as though the public facilities

which are the subject of this Agreement had not been built. The costs of obtaining any such determination shall be borne solely by the persons or entities seeking to use said public facilities.

6. COLLECTION OF COSTS AND PAYMENT TO DEVELOPER.

The City agrees to collect the amounts specified in Section 5., above, at the time required and, within ten (10) days thereafter, pay such amounts, in full, to Developer.

7. TERM OF REIMBURSEMENT OBLIGATION. City's obligation to collect funds and to pay Developer under this Agreement shall continue for a period of twenty-five (25) years from the date of this Agreement, unless the obligation is sooner satisfied by payment in full of all sums due and owing to Developer under this Agreement. After such twenty-five (25) year period, the reimbursement process shall cease and any amount of Developer's costs then unpaid shall be waived and the City shall thereafter have no further obligation whatsoever under this Agreement.

8. ASSIGNMENT.

Developer shall have the right to assign all or portions of its rights, duties and obligations under this Agreement. Notice of any such assignment shall be given to City within thirty (30) days of such event.

9. ATTORNEYS' FEES.

In the event any action is commenced to enforce or interpret any term or condition of this Agreement, in addition to costs and any other relief, the prevailing party shall be entitled to reasonable attorneys' fees.

10. NOTICE.

Any notices required or desired to be sent pursuant to

this Agreement shall be addressed as follows:

City	Developer
City of Banning Attention: City Manager 99 East Ramsey Street Banning, CA 92220 Tel. (909) 922-0300	_____ _____ _____

Either party may change its address by written notice to the other party.

11. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties hereto with respect to the matters contained herein.

CITY OF BANNING

By_____
Mayor

ATTEST:

_____
City Clerk

DEVELOPER

By_____

By_____

DEY/bls#31
BANNING.REM

EXHIBIT "A"

DESCRIPTION OF PUBLIC

FACILITIES TO BE CONSTRUCTED

EXHIBIT H

LIST OF EXISTING

LAND USE RULES

ON FILE WITH THE BANNING

CITY CLERK

ORDINANCE NO. 1330

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING CHANGING THE ZONING DESIGNATION ON 600 ACRES OF LAND FROM RESIDENTIAL AGRICULTURE AND RESIDENTIAL AGRICULTURE-1 TO SPECIFIC PLAN FOR ASSESSOR'S PARCELS 531-060-014 THROUGH -017, 531-060-032 THROUGH -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 THROUGH -019, 535-060-002, 535-060-005

WHEREAS, an application Zone Change has been duly filed by:

Applicant / Owner:	Loma Linda University
Authorized Agent:	N/A
Project Location:	North of Wilson Street, on the east side of Sunset Avenue
APN Number:	531-060-014 through -017, 531-060-032 through -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 through -019, 535-060-002, 535-060-005
Lot Area:	600 Acres

WHEREAS, on the 16th day of September 2005, the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette newspaper and notices to property owners within 1200 feet of the site were mailed a public hearing notice of the holding of a public hearing at which the project would be considered; and

WHEREAS, on the 2nd day of August 2005, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Change and at which time the Planning Commission recommended approval of the Zone Change to the City Council; and

WHEREAS, on the 27th day of September 2005, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Change and at which time the City Council considered the Zone Change; and

WHEREAS, the City Council considered the Environmental Impact Report prepared for the proposed project and certified same.

NOW THEREFORE, the Banning City Council does ordain as follows:

SECTION ONE: The Official Zoning Map of the City of Banning is amended as follows:

Assessor's Parcel Nos. 531-060-014 through -017, 531-060-032 through -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 through -019, 535-060-002, 535-060-005 and to be designated Specific Plan.

PASSED, APPROVED, AND ADOPTED, this 11th day of October, 2005 at Banning, California.

John Machisic, Mayor

APPROVED AS TO FORM
AND LEGAL CONTENT:

Julie Hayward-Biggs
City Attorney

ATTEST:

Marie A. Calderon
City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1330 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 27th day of September, 2005, and was duly adopted at a regular meeting of said City Council on the 11th day of October, 2005, by the following vote, to wit:

Ayes:	Councilmembers Hanna, Palmer, Salas, Welch, Mayor Machisic
Noes:	None
Absent:	None
Abstain:	None

Marie A. Calderon, City Clerk
City of Banning

ORDINANCE NO. 1331

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING AMENDMENT NUMBER 1 TO PRE-ANNEXATION AND DEVELOPMENT AGREEMENT [BANNING BENCH PROPERTY] BETWEEN THE CITY OF BANNING AND LOMA LINDA UNIVERSITY

WHEREAS, California Government Code Section 65864 *et seq.* (the "Development Agreement Statute") provides the underlying authority for cities to enter into binding agreements with the owners of real property which agreements vest certain rights in the owner of the property in exchange for providing certain public benefits; and

WHEREAS, the City has implemented the Development Agreement Statute by adopting Chapter 22A to the Banning Municipal Code authorizing the City Council to consider and approve development agreements; and

WHEREAS, Loma Linda University has submitted an application for approval of Amendment Number 1 to Pre-Annexation and Development Agreement for that project known as the Banning Bench Specific Plan, for which the City has previously approved a General Plan Amendment (GPA #04-2502), a Zone Change (ZC #04-3502), a Specific Plan (SP #04-201), and an Environmental Impact Report (SCH #2001061131); and

WHEREAS, on August 2, 2005, at a public hearing noticed in accordance with Government Code Section 65687, the Banning Planning Commission reviewed and considered the application for the Amendment Number 1 to Pre-Annexation and Development Agreement and, finding it to be consistent with the City's General Plan and properly analyzed under the Environmental Impact Report, recommended it for approval to the City Council: and

WHEREAS, on September 27 and October 11, 2005, at a public hearing noticed in accordance with Government Code Section 65687, the Banning City Council reviewed and considered the application for the Amendment Number 1 to Pre-Annexation and Development Agreement and heard any testimony for and against the project that was presented at the hearing or made part of the public; and now therefore,

THE CITY COUNCIL OF THE CITY OF BANNING ORDAINS AS FOLLOWS:

SECTION 1: The City Council, based on the entire record before it, including any testimony heard at the public hearing of this matter or made part of the public record, does find as follows:

A. Amendment Number 1 to the Pre-annexation and Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in the City of Banning's General Plan in that the Amendment Number 1 to Pre-annexation

and Development Agreement makes reasonable provision for the use of certain real property for residential, recreational and commercial use as permitted in the Specific Plan land use designation of the General Plan. Further, the Amendment Number 1 to Pre-annexation and Development Agreement is consistent with the General Plan because the General Plan encourages the development of master planned communities through Specific Plans and the Development Agreement requires that a Specific Plan be prepared for this property; and the General Plan encourages the planned development of parcels to provide a range of housing opportunities, and the Specific Plan provides for such opportunities.

B. Amendment Number 1 to the Pre-annexation and Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in Specific Plan (SP #04-201) in that the Amendment Number 1 to Pre-annexation and Development Agreement makes reasonable provision for the use of certain real property for residential, recreational and commercial use as permitted under the zoning and development standards of the Specific Plan. The Specific Plan sets forth standards and guidelines which are similar to those in the Zoning Ordinance, and incorporates certain standards directly. Further, the land use designation for this area is Specific Plan, which is consistent with the requirement in the Development Agreement to create a Specific Plan.

C. As required by Government Code section 65867.5(c), Amendment Number 1 to the Pre-annexation and Development Agreement contains a provision in section 6 that any tentative map prepared will comply with Government Code section 66473.7 regarding the availability if water for subdivisions of 500 or more.

SECTION 2: The City Council of the City of Banning hereby takes the following action by adoption of this Ordinance:

A. Amendment Number 1 to the Pre-annexation and Development Agreement is hereby approved.

B. The Mayor is authorized and directed to evidence such approval by executing Amendment Number 1 to the Pre-annexation and Development Agreement for, and in the name of, the City of Banning; and the City Clerk is directed to attest thereto; provided however, that Amendment Number 1 to Pre-annexation and Development Agreement shall not be executed until this Ordinance takes effect.

C. The City Clerk is hereby directed to record one executed original of the Amendment Number 1 to Pre-annexation and Development Agreement with the Recorder for the County of Riverside within ten (10) days after this Ordinance takes effect.

SECTION 3: This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

SECTION 4: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5: The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

Introduced at the regular meeting of Banning City Council on October 11, 2005

PASSED, APPROVED, AND ADOPTED, this 25th day of October, 2005.

John Machisic, Mayor

APPROVED AS TO FORM AND LEGAL CONTENT:

~~Julie Hayward-Biggs~~ Eric S. Vail
Asst. City Attorney

ATTEST:

Marie A. Calderon
City Clerk

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, do hereby certify that the foregoing Ordinance No. 1331 was duly introduced at a regular meeting of the City Council of the City of Banning, California, held on the 11th day of October, 2005, and was duly adopted at a regular meeting of said City Council held on the 25th day of October, 2005, by the following vote, to wit:

AYES:	Councilmembers Hanna, Palmer, Salas, Welch, Mayor Machisic
NOES:	None
ABSTAIN:	None
ABSENT:	None

Marie A. Calderon, City Clerk
City of Banning

DOC # 2006-0227633
03/30/2006 08:00A Fee:NC
Page 1 of 11
Recorded in Official Records
County of Riverside
Larry W. Ward
Assessor, County Clerk & Recorder

PLEASE COMPLETE THIS INFORMATION
RECORDING REQUESTED BY:
The City of Banning, California

AND WHEN RECORDED MAIL TO:
City of Banning
P. O. Box 998
99 East Ramsey Street
Banning, CA 92220
Attention: City Clerk

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C
TC

TRA:
DTT: AMENDMENT NO. 1 to PREANNEXATION AND DEVELOPMENT AGREEMENT

Title of Document

This document is recorded at the request and for the benefit of the City of Banning and is exempt from recording fee pursuant to Government Code Section 27383

THIS AREA FOR RECORDER'S USE ONLY

NOTE: This document amends that certain "Preannexation and Development Agreement" recorded in the office of the Assessor-County Clerk-Recorder of Riverside County, as document number 233919 on July 20, 1995. This document is being re-recorded to add the Notary Acknowledgment of Loma Linda University.

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
($3:00 Additional Recording Fee Applies)

AMENDMENT NO. 1 TO PRE-ANNEXATION AND DEVELOPMENT AGREEMENT

This AMENDMENT NO. 1 TO PRE-ANNEXATION AND DEVELOPMENT AGREEMENT ("Amendment") dated this 28 day of November 2005 ("Amendment Date"), is made and entered into by and between the CITY OF BANNING, a municipal corporation and California general law city (the "City"), and LOMA LINDA UNIVERSITY, a California non-profit corporation (the "University"); the City and the University are sometimes hereinafter collectively referred to as the "Parties."

WHEREAS, the University is the owner of certain real property located in the City and described in the attached Exhibit A (the "Property"); and

WHEREAS, in accordance with the provisions of the Development Agreement Act (California Government Code Section 65864 *et seq.*), on July 19, 1995, the Parties entered into that certain *Pre-Annexation and Development Agreement* (the "Agreement") pertaining to the Property; and

WHEREAS, the Parties now wish to make appropriate amendments to the Agreement.

NOW, THEREFORE, for a valuable consideration, the Parties agree as follows:

1. COMPLIANCE WITH CEQA AND SATISFACTION OF JUDGMENT. In accordance with the requirements of the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*: "CEQA"), the City has caused to be prepared an Environmental Impact Report ("EIR") as contemplated by the Agreement. The City has duly reviewed, approved, and certified the EIR, and the Parties agree that the EIR and the Mitigation Monitoring Plan prepared in conjunction therewith satisfy the requirements of Section 5 of the Agreement. The City shall submit the return on the writ in the action styled *Banning Bench Community of Interest Association v. City of Banning, et al.* [Riverside County Superior Court Case No. 269906] in the form stipulated to by counsel to the parties to that action.

2. TIMING OF PROPERTY DEVELOPMENT. The Parties agree that there is no requirement for the University to initiate or complete development on the Property within any particular period of time, and the City shall not impose such a requirement on the University. The Parties acknowledge that the University cannot at this time decide when or the rate at which or the order in which the Property will be developed. Such decisions depend upon numerous factors which are not within the control of the University, such as market orientation and demand, interest rates, competition, governmental regulations, and other similar factors. Therefore, the Parties agree that the University shall be able to develop

the Property in accordance with its own time schedule (as such schedule may exist from time to time), and the University shall determine which part of the Property to develop first, and at its chosen schedule; provided, however, that such time schedule does not conflict with the EIR and the land use entitlements approved by the City in connection therewith. In particular (and not in limitation of the foregoing), since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, (1984) 37 Cal.3d 465, that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the desire of the Parties to avoid that result by acknowledging that the University shall have the right to develop the Property in such order and at such rate and at such times as the University deems appropriate within the exercise of its judgment.

3. IN-LIEU FEE. In addition to the terms of the Agreement, the Parties also recognize that it is in their long-term mutual best interests for the City to have adequate funding to operate effectively and provide services to the community. Therefore, the University shall pay to the City an in-lieu fee in an amount not to exceed Three Million Six Hundred Fifty Thousand Dollars ($3,650,000.00: the "In-Lieu Fee"). The University shall pay the In-Lieu Fee to the City in installments of Seven Thousand Dollars ($7,000.00: the "Per Unit Amount") for each residential unit developed on the Property, regardless of whether it is an attached, detached, rental/lease, or "for-sale" housing unit and shall continue to pay the Per Unit Amount until such time as the In-Lieu Fee is paid in full.

4. IN-LIEU FEE CREDIT. Except as is expressly provided to the contrary in this Section 4, and notwithstanding the Agreement precluding the City from imposing new development fees on the Property during the term thereof, to the extent that the University is lawfully required to pay, and does pay, to the City or any other public agency, any new, different, or increased development fee(s) imposed by the City on the Property other than those development fees in the amounts and types in effect as of the effective date of the Agreement (*i.e.*, July 19, 1995), the payment of any such new, different, or increased development fee(s) shall be credited against the In-Lieu Fee due under Section 3 of this Amendment. In the event that, following the University's payment of all or any portion of the In-Lieu Fee due under Section 3 of this Amendment, the University is required to pay any such new, different, or increased development fee(s), then the City shall immediately reimburse the University for the same amount previously paid hereunder. Notwithstanding anything to the contrary, the credit provided to the University in this Section 4 shall terminate concurrent with the Agreement's termination. Notwithstanding the limitations imposed on the amount and type of fees imposed under the Agreement, University shall pay, without reduction of the In-Lieu Fee, all "Water-Related Fees and Charges" lawfully imposed by the City as a condition of development of the Property. For the purpose of this Amendment, "Water-Related Fees and Charges" shall include without limitation, development impact fees, facilities fees, connection fees, and other monetary exactions relating to water, recycled water, waste water and sewer.

5. PUBLIC SAFETY CFD. Provided that the City of Banning has formed or has initiated proceedings to form a Community Facilities District ("CFD") established under the Mello-Roos Community Facilities Act of 1982 (Government Code § 53311 et seq.) for the provision of public services permitted under Government Code § 53313, including police, fire protection, and emergency medical services (collectively "Public Safety Services"), then prior to approval of any final map for the Property or part of the Property, the area covered by such final map ("Tract") shall be included within, or annexed to, the CFD as the case may be, and shall be subject to the special tax approved and levied by the CFD.

The University acknowledges and agrees that if the Tract and each of them were not a part of the CFD referred to above, the City might lack the financial resources to operate and provide Public Safety Services at adequate levels. The University, or its successors and assignees of the Property and/or the Project on the Tract shall notify all potential lot buyers prior to sale of such lot(s) that: (1) the Tract is part of the CFD; (2) each lot within the Tract is subject to the levy of a special tax; and (3) the amount of the special tax for the subject lot. This notification shall be in a manner approved by the City.

6. ANNUAL REVIEW. The provisions of Section 16 of the Agreement, dealing with annual review, are hereby deemed waived by the Parties during the period starting on July 19, 1995, and ending on the Amendment Date.

7. DEVELOPMENT AGREEMENT ACT FINDING. In accordance with Government Code Section 65868, and subdivision (c) of Government Code Section 65867.5, the tentative map prepared for the Property in connection with the Agreement will comply with the provisions of Government Code Section 66473.7.

8. AFFIRMATION OF AGREEMENT. Except as expressly modified by this Amendment, the Agreement remains unmodified and in full force and effect and binding upon the Parties. To the extent of any inconsistencies between the terms and provisions of this Amendment and the terms and provisions of the Agreement, the terms and provisions of this Amendment shall control.

9. INUREMENT. This Amendment shall inure to the benefit of, and shall be binding upon, the Parties and their respective successors and assigns.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment to the Agreement, to be effective as of the Amendment Date.

"CITY":

CITY OF BANNING, a municipal corporation and California general law city

By: _____
John Machisic, Mayor

ATTEST:

_____
Marie Calderon, City Clerk

APPROVED AS TO FORM:

BURKE, WILLIAMS & SORENSON, LLP

_____
~~Julie Hayward Biggs~~, City Attorney
Eric S. Vail Asst.

"UNIVERSITY":

LOMA LINDA UNIVERSITY, a California non-profit corporation

By: _____
Verlon W. Strauss, Vice, President [~~CEO~~]

By: _____
Robert W. Frost, Asst. , Secretary/~~Treasurer~~

RIV #4832-4199-9104 v2

See attached Notary Acknowledgement

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Bernardino } ss.

On March 15, 2006 (Date) before me, Linda L. Gibbs, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Robert W. Frost & Verlan W. Stevens (Name(s) of Signer(s))

☑ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

LINDA L. GIBBS
Commission # 1423162
Notary Public - California
San Bernardino County
My Comm. Expires Jun 8, 2007

WITNESS my hand and official seal.

Linda L. Gibbs
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Amendment No. 1 to Pre-Annexation and Development Agreement

Document Date: 3/15/06 Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

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EXHIBIT A

DESCRIPTION OF THE PROPERTY

Assessor's Parcel Number
535-070-36
531-060-008
531-060-014
531-060-015
531-060-016
531-060-017
531-060-032
531-060-033
531-060-034
531-070-002
531-070-004
531-070-006
531-070-007
531-070-008
531-070-009
531-070-012
531-070-013
531-070-014
531-070-015
531-070-016
531-070-017
531-070-018
531-070-019
535-060-002
535-060-005

ORDINANCE NO. 1353

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING SPECIFIC PLAN #04-209, TO ESTABLISH THE DEVELOPMENT STANDARDS AND GUIDELINES TO ALLOW THE DEVELOPMENT OF UP TO 1,500 RESIDENTIAL UNITS, A 13.1 ACRE SCHOOL SITE, 81.2 ACRES OF PARKS, AND 869 ACRES OF OPEN SPACE ON A 1,488 ACRE SITE GENERALLY LOCATED NORTH OF WILSON STREET, WEST OF BLUFF STREET, BETWEEN SUNSET AVENUE AND HIGHLAND SPRINGS AVENUE.

WHEREAS, an application for Specific Plan #04-209, to establish the development standards and guidelines for the development of up to 1,500 residential units, a 13.1 acre school site, 81.2 acres of parks, and 869 acres of open space on a 1,488 acre site, has been duly filed by:

Applicant / Owner:	SunCal Companies
Authorized Agent:	Rod Hanway
Project Location:	Generally located north of Wilson Street, west of Bluff Street, between Sunset Avenue and Highland Springs Avenue.
APN Numbers:	401-230-001 thru 011, 401-240-007 & 008, 401-250-005 & 006, 401-260-005 & 006, 531-200-001 thru 010, 531-210-004, 531-210-008 thru 012, 531-230-001 thru 007, 531-230-011 & 012, 531-240-007, 531-340-001 & 004.
Lot Area:	1,488 Acres

WHEREAS, the Municipal Code allows for the preparation of Specific Plans when land use amendments are proposed; and

WHEREAS, on the 29th day of September 2006, the City gave public notice by advertising in the Press Enterprise newspaper and property owners within 1200 feet of the site were mailed a public hearing notice of the holding of a public hearing at which the project would be considered; and

WHEREAS, at a public hearing on the 15th day of August 2006, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Specific Plan and at which time the Planning Commission considered the Specific Plan and approved Resolution No. 06-18 recommending approval of the Black Bench Specific Plan to the City Council; and

WHEREAS, on the 11th day of October 2006, , the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Specific Plan; the City Council continued consideration of the Specific Plan to October 24th 2006, and at which time the City Council considered the Specific Plan; and

WHEREAS, at this public hearing on the 11th day of October 2006, which was continued to the 24th day of October 2006, the City Council considered and heard public comments on the Specific Plan; and

WHEREAS, the City Council considered the Environmental Impact Report prepared for the proposed project and recommended its certification to the City Council.

NOW THEREFORE, the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Reports dated the 11th and 24th day of October 2006, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing on this matter, hereby finds and determines as follows:

1. CEQA: The approval of this Specific Plan is in compliance with the requirements of the California Environmental Quality Act ("CEQA"), in that an Environmental Impact Report was prepared reflecting its independent judgment and analysis and documenting the potential significant impacts associated with implementation of the proposal. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 East Ramsey Street, Banning, California 92220.

2. Multiple Species Habitat Conservation Plan (MSHCP). A portion of the project is located within the MSHCP criteria Cell #227 and has gone through the HANS process with the Riverside Conservation Authority. No development or disturbance of land will occur within the Cell and mitigation will also be made through the payment of the MSHCP mitigation fees.

SECTION 2. GENERAL PLAN CONSISTENCY

The City Council finds that the Specific Plan is consistent with the General Plan, as amended, insofar as the property is designated Specific Plan Area with an underlying Very Low Density land use designation (0-2 units/acre). The site is 1,488 acres and the applicant proposes to cluster 1,452 residential parcels, a density of less than one unit per acre. Further, this map will provide executive ("move-up") housing opportunities, which is consistent with Land Use Residential Goal 2 in that the project will provide "a broad range of housing types to fill the

needs of the City's current and future residents". Also, the Map will provide approximately 81.2 acres of parks and 869 acres of open space with a variety of passive and active recreational opportunities, which is consistent with Goal 1 of providing "a high quality public park system with adequate land and facilities to provide recreational facilities and activities for the City's residents."

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. Approval of Specific Plan. The City Council hereby approves Specific Plan #04-209

PASSED, APPROVED AND ADOPTED this 14th day of November, 2006.

John Machisic, Mayor

APPROVED AS TO FORM AND
LEGAL CONTENT:

Burke, Williams & Sorensen LLP
Dep. City Attorney
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1353 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 24th day of October, 2006, and was duly adopted at a regular meeting of said City Council on the 14th day of November, 2006, by the following vote, to wit:

AYES:	Councilmembers Salas, Welch, Mayor Machisic
NOES:	Councilmembers Hanna, Palmer
ABSENT:	None
ABSTAIN:	None

Marie A. Calderon, City Clerk
City of Banning
Banning, California

Utility Director to Negotiate and Execute Specified Electric Utility Agreements on Behalf of the City of Banning and Rescinding Ordinance No. 1228.

Motion Welch/Palmer to waive further reading of Ordinance No. 1333. Motion carried, all in favor.

Motion Welch/Palmer that Ordinance No. 1333 pass its first reading. Motion carried, all in favor.

PUBLIC HEARINGS

1. A request for approval of a Development Agreement Amendment for the Banning Bench (Also Known as the Loma Linda Specific Plan).
(Staff Report – Oscar Orci, Community Development Director)

Mr. Orci said that this is a request for the Council to approve the ordinance approving the Development Agreement Amendment. As you recall at the last Council Meeting the City Council reviewed and approved the Banning Bench residential development and that included a General Plan amendment, as well as, specific plan and various tracts maps. As part of that development process the request included an amendment to the Development Agreement. Staff brought this back in an ordinance format as required by law and this agreement is before the City Council for approval. Council has received the latest revisions and will have an opportunity to review this between first and second readings. Should the Council have any issues or questions, they can bring it up at the second meeting if additional time is needed. The amendment to the agreement sets forth a revision that will require the applicant to pay in-lieu fees so that the fees that were originally in the July 1995 agreement will still stay in place with the exception of that in-lieu payment, as well as, all water related charges the applicant will still have to pay. This is the essence of the revisions and it also does require the applicant to participate in the CFD for public services both for police and fire and emergency services should the City elect to do that prior to the applicant recording the final map.

NO MINUTES AVAILABLE

Councilmember Hanna said that in terms of the in-lieu fee credit at what point is that amount determined?

Mr. Orci said that the initial agreement established a set fee, the fees that were in place in July 1995. What this amendment does is to require the applicant to pay a fee and get credit for the additional fees that have been imposed since 1995. That is what the $3.6 million is for. It also requires the applicant to pay the current water fees; not the ones that were imposed in 1995. So to a certain degree that credit section of the agreement is essentially saying that if you pay the in-lieu fee, you will be substantially in conformance with the previous provisions of the agreement which were the fees established in 1995.

Mayor Machisic opened the public hearing for comments from the public. There were none. Mayor Machisic closed the public hearing.

City Attorney said that the document that is in the staff report has been updated and the City Council has received copies of the latest revision and that is the one that is being acted upon.

Mayor Machisic asked the City Clerk to read the title of Ordinance No. 1331. City Clerk read: Ordinance No. 1331, "An Ordinance of the City Council of the City of Banning Adopting Amendment Number 1 to Pre-Annexation and Development Agreement (Banning Bench Property) Between the City of Banning and Loma Linda University.

Motion Hanna/Welch to waive further reading of Ordinance No. 1331. Motion carried, all in favor.

Motion Palmer/Welch that Ordinance No. 1331 pass its first reading. Motion carried, all in favor.

2. Planning Commission Bylaws
(Staff Report – Oscar Orci, Community Development Director)

Mr. Orci said earlier this year the City directed staff, as well as, the Planning Commission to review the existing Planning Commission bylaws. The Planning Commission did conduct a workshop and did review the context of the existing code and provided additional information to staff. The Planning Commission also held a public hearing to review those proposed modifications to the ordinance as is presented today in the form of Ordinance No. 1332, proposed changes to the Banning Municipal Code related to the Planning Commission operating procedures (Bylaws). Some of the more notable modifications to the bylaws include a four year term for each Planning Commissioner; that the Planning Commissioners are selected by the entire Council; that certain absences three unexcused absences or six absences within a period of 12 months would constitute a resignation by the Planning Commission member; no compensation to the Planning Commissioners; also included provisions that would require or mandate certain training for the Planning Commissioners.

There was some discussion regarding the need to send the Planning Commission Chairman or a member to the Annual League of California Cities conference.

Mayor Machisic said that he would like to see an annual meeting with the Planning Commission and the City Council because sometimes when projects come to the Council they may be altered for whatever reason and sometimes approved in total. He would like the Council and the Planning Commission get together so if there is a point of contention or if there is something the Council wants clarification on.

Councilmember Hanna asked Mr. Orci to review where we would go from here, for example, the revisions as you mentioned included four year terms staggered among the Commission members at two year intervals and how is that going to come about.

Mr. Orci said that the next phase is to prepare the necessary backup data including but not limited to applications, duties and responsibilities so that you have the ability to then solicit

STAFF REPORT
CITY COUNCIL

DATE: **September 27, 2005**

TO: **Honorable Mayor and Members of the City Council**

FROM: **Nicole Sauviat Criste, Consulting Planner**

SUBJECT: **A request for approval of General Plan Amendment #04-2502, Zone Change #04-3502, Specific Plan #04-201, Environmental Review #04-1501, Development Agreement Amendment and Environmental Impact Report for the Banning Bench (Also Known as the Loma Linda Specific Plan)**

RECOMMENDATION:

That the City Council certify the Environmental Impact Report, adopt a Statement of Overriding Considerations and a Mitigation Monitoring Program, and approve the General Plan Amendment, Zone Change, Specific Plan and Development Agreement Amendment.

MOTIONS:

"I move that the City Council approve the proposed project by:

1. ***Approving Resolution No.05-106, adopting a Statement of Overriding Considerations and certifying the Environmental Impact Report;***
2. ***Approving Resolution No.05-105, approving General Plan Amendment #04-2502;***
3. ***Approving Resolution No.05-107, approving Specific Plan #04-201.***
4. ***Approving Resolution No. 05-108, approving Amendment No. 1 to the Pre-annexation and Development Agreement; and***
5. ***Introducing Ordinance No. 1330, and read by Title only, approving Zone Change 04-3502."***

ALTERNATIVES:

Denial:

"I move that the City Council deny General Plan Amendment #04-2502, Zone Change #04-3502, Specific Plan #04-201, Environmental Review #04-1501, Development Agreement Amendment and Environmental Impact Report for the Banning Bench."

136

Continuance:

"I move the City Council continue the public hearing to its October 11, 2005 meeting".

STATEMENT OF FINDINGS:

Findings for this project have been made, and can be found in the attached Resolutions.

JUSTIFICATION:

The proposed project is designed and conditioned to provide for a master planned community with golf course and open space amenities consistent with the Development Agreement.

BACKGROUND:

CASE NO'S: **GENERAL PLAN AMENDMENT #04-2502, ZONE CHANGE #04-3502, SPECIFIC PLAN #04-201, ENVIRONMENTAL REVIEW #04-1501, DEVELOPMENT AGREEMENT AMENDMENT AND ENVIRONMENTAL IMPACT REPORT FOR THE BANNING BENCH (ALSO KNOWN AS THE LOMA LINDA SPECIFIC PLAN)**

REQUESTS: **SPECIFIC PLAN AND DEVELOPMENT AGREEMENT TO ALLOW THE CONSTRUCTION OF 944 RESIDENTIAL UNITS, AN 18 HOLE GOLF COURSE, A 10 ACRE COMMERCIAL SITE, OPEN SPACE AND PUBLIC/QUASI-PUBLIC USES ON A 600 ACRE SITE. THE GENERAL PLAN AMENDMENT AND ZONE CHANGE ARE REQUIRED TO CHANGE THE RESPECTIVE MAPS TO BE CONSISTENT WITH THE SPECIFIC PLAN LAND USE PLAN. THE DEVELOPMENT AGREEMENT AMENDMENT SETS FORTH THE TERMS AND CONDITIONS FOR DEVELOPMENT ASSOCIATED WITH THE SPECIFIC PLAN.**

LOCATION: **THE EAST SIDE OF SUNSET AVENUE, APPROXIMATELY 9,500 FEET NORTH OF WILSON STREET**

APPLICANT: **LOMA LINDA UNIVERSITY**

ENVIRONMENTAL CONSIDERATION: **AFTER COMPLETION OF AN INITIAL STUDY, THE COMMUNITY DEVELOPMENT DIRECTOR DETERMINED THAT THE PROJECT WOULD RESULT**

137

IN POTENTIALLY SIGNIFICANT EFFECTS ON THE ENVIRONMENT, AND AN ENVIRONMENTAL IMPACT REPORT WAS PREPARED.

HISTORY:

The Loma Linda Specific Plan area consists of 600 acres located north of Wilson Street and east of Sunset Avenue. The project site was annexed to the City in or about 1995, at which time a Pre-Annexation and Development Agreement was signed between Loma Linda University and the City. The Agreement set forth provisions for the annexation and development of the 600 acres, 490 of which were adjacent to City limits but in unincorporated Riverside County. The Agreement included provisions for the preparation of a Specific Plan allowing up to 944 residential units, a 10 acre school site, a 1 acre police/fire station, 7.5 acres of park lands, 15 acres of on-site park land, and an 18 hole golf course that would allow public use for a minimum period of 10 years. The Specific Plan under consideration is proposed to implement this Development Agreement.

In addition to the required land use components listed above, the Specific Plan also includes provisions for open space areas, a 10 acre office/commercial site, and golf clubhouse and ancillary facilities. A detailed description of the proposed land uses within the Specific Plan is provided below.

The Specific Plan and Environmental Impact Report Process

State law allows for the preparation of Specific Plan documents to detail the land uses, infrastructure requirements, and other issues associated with more complex projects. In the case of this application, a Specific Plan is the most appropriate planning tool, insofar as a master planned community is envisioned with many different uses and considerable infrastructure needs.

The Specific Plan, once adopted by the City Council, becomes the "mini-zoning ordinance" for the project, and will be used to guide the development of the entire site. Following Specific Plan approval, a series of tract maps, design reviews and other entitlements are required. These will be undertaken in conformance with both the Specific Plan and the Zoning Ordinance. In this case, the Specific Plan proposes that implementation be through the processes already established in the Zoning Ordinance. There are no immediate development proposals associated with this application. The tract maps, design reviews or other applications will be submitted at a later date.

The CEQA Guidelines set forth specific content requirements for EIRs, and the process through which EIRs are reviewed. Among its most significant requirements, the EIR determines the level of impact associated with a development proposal; sets forth mitigation measures which reduce significant impacts to less than significant levels; determines which impacts cannot be mitigated to less than significant levels, if any; considers alternatives to the project which could reduce the potential impacts while still meeting project objectives; and analyzes the cumulative impacts associated with not only the development proposal, but also other developments planned in the area.

138

In this case, the EIR was circulated for public review for a period of 45 days, as required. Comments were received, and a response to comments was prepared (the response to comments is attached to this staff report). The EIR has determined that certain impacts associated with air quality, aesthetics and noise cannot be mitigated to less than significant levels. As is required by CEQA, in order to certify the EIR when certain impacts cannot be mitigated, the City Council must consider, and if it wishes adopt, a Statement of Overriding Considerations – a statement which sets forth the reasons why the benefits of the project offset, or override, the potential significant impacts associated with the project. A further discussion of unmitigated impacts is provided under "Environmental Review," below.

Project Location and Access

The project site is located north of Wilson Street, on the east side of Sunset Avenue. The project site extends northerly on Sunset a distance of approximately 9,500 feet. The vast majority of the project area occurs on the east side of Sunset, but a narrow strip of land on the west side of Sunset, approximately at the mid-point of the property, is also part of the property.

Access to the site will be provided on Sunset, at the mid-point of the property. An east-west roadway will be created to access the northern and southern halves of the property.

General Plan Amendment and Change of Zone

The current General Plan land use designations for the project site are Very Low Density Residential (0-2 units per acre), and Rural Residential (0-1 unit per acre). A Specific Plan overlay also applies to the property. The General Plan designation is proposed to be changed to Specific Plan.

The current Zoning designations for the property are Residential Agriculture (0-2 units per acre) and Residential Agriculture-1 (1 unit per acre). The Zoning designation is proposed to be changed to Specific Plan, and the Specific Plan will become the site-specific zoning for the property.

The current capacity of the property, at its current designations, would allow approximately the same number of units as is proposed under the Specific Plan. Current land use designations divide the property between 346 acres of Very Low Density Residential and 229 acres of Rural Residential. Therefore, about 921 traditional housing units could be constructed on the site currently. The proposed change in designation allows for the creative allocation of land, to include open space, park and golf course facilities, with residential land uses clustered or distributed around these amenities. The proposed Specific Plan introduces a 10 acre commercial site, which will be designed to serve area and Specific Plan residents; and public and quasi-public areas which will provide public services to the area. The provision of commercial and public uses in close proximity to residential land uses helps to reduce vehicle trips and improve public safety.

139

The uses proposed are internally compatible, and support General Plan policies, including Policy 26.1.b., which states:

"In areas designated Very low Density Residential which are adjacent to existing or planned urban-intensity development where natural constraints make development of half-acre minimum lots impractical: Clustered single family dwellings on lots smaller than 20,000 square feet where sufficient open space has been preserved such that overall development density meets the requirements of the Very Low Density Residential category..."

Further, Policy 26.5 states:

"Within Specific Plan areas...permit larger-scaled, mixed use developments subject to approval of a specific plan...Within these specific plan areas, emphasize residential development to meet a mixture of housing types and sizes along with retail commercial, recreation, and other types of uses..."

Policy 26.8 further states:

"Encourage Planned Residential Developments, which provide housing that is varied by type, design, form of ownership, and size. In particular, utilize planned residential developments on small, oddly configured parcels where conventional residential product designs would result in inefficient land utilization and where planned development standards can achieve innovative housing concepts."

The proposed General Plan Amendment and Change of Zone, therefore, are consistent with the General Plan, and will further General Plan policies for the development of well planned, mixed use communities to serve all types of residents, and the findings for approval can be made.

Specific Plan

The Specific Plan addresses the land uses, development parameters and infrastructure parameters for the entire 600 acre site. The project will include a total of 186 acres of residential uses, ranging in density from 4.0 units per acre to 7.4 units per acre. In addition to the residential land uses, the Specific Plan proposes 11.7 acres of commercial land (the 10 acre commercial site, and the 1.7 acre sales center, which will be converted to commercial development when the sales center is no longer required), 184.4 acres of golf course and clubhouse areas, 21.2 acres of public and quasi-public land uses (6.2 acres for a police/fire station, post office, church or other use, and 15.0 acres for a school site and/or park), and 127.3 acres of open space land (including an electric transmission line easement and other open space lands). The balance of the acreage is planned for local and regional roadways.

The project has been divided into 15 planning areas, each with its own character, land uses and density potential. Multiple planning areas may be developed at once, based on the project phasing plan. The first phase of development is expected to include the first 9

140

holes of the golf course, residential planning areas 1-3, the commercial center, the sales center, the public area/school site, and a 15 acre community park. Phase II of the project is shown to include residential planning areas 4, 5, and half of planning area 9, as well as the balance of the golf course, and the public area/fire station. The last phase will include residential planning areas 6-8, and the second half of planning area 9. Depending on market conditions, it can be expected that phasing will vary from that shown in the Specific Plan.

The proposed project will include land uses as set forth in the Table below.

Table 1
Proposed Land Use Summary

Land Use	Plan. Area #	Acres	Units/ Acre	Min. Lot Size	Avg. Lot Size	Total Units
Single Family Residential	1	13.1	4.0	7,000	10,890	53
Single Family Residential	2	24.2	5.25	5,000	8,297	127
Single Family Residential	3	29.4	4.25	5,500	10,249	125
Single Family Residential	4	11.3	4.25	5,500	10,249	48
Single Family Residential	5	27.1	4.25	5,500	10,249	115
Single Family Residential	6	20.8	5.25	5,000	8,297	109
Single Family Residential	7	24.5	5.25	5,000	8,297	128
Single Family Residential	8	12.6	5.5	5,000	7,920	69
Clustered Homes	9	23.0	7.4	3,000	N/A	170
Office/Commercial	10	10				
Quasi-Public: Police/Fire Station, post office, church, etc.	11	6.2				
Project Sales Center/Commercial	12	1.7				
Golf Course & Clubhouse	13	184.4				
Public Use: school, park	14	15.0				
Power line Easement	15	24.3				
Open Space	15	103				
Roadways		69.4				
Total		**600**	**5.04**			**944**

As noted above, the net residential density proposed is 5.04 units per acre. When the golf course and open space areas are added to the calculation, a gross density of 1.9 units per acre is proposed.

The Land Use Plan (Figure 4 of the Specific Plan) provides the location of each of the land use types within the project.

Development Standards

141

The Specific Plan includes project-wide development standards (pages III-11 through III-16). In addition, each planning area provides specific standards applicable to that area only, including park requirements, density, fuel management zone requirements, and emergency access requirements. Staff had a concern, however, that specific development standards sufficient to analyze future projects were not included in the Plan. As a result, the applicant provided development standards for the three types of land use (single family residential, clustered residential and commercial/public) as an addition to the Specific Plan. These development standards, labeled items 28 through 30, are attached to this staff report as Attachment C.

The attached Development Standards, when combined with the other provisions of the Specific Plan, provide the City with sufficient guidance to assure that the future tracts maps, design reviews and other permits which may be required within the project site will be of highest quality. The applicant has requested variations from Zoning Code standards, particularly relating to lot size. In the single family planning areas, lot sizes are proposed to be as small as 5,000 square feet. Several conditions apply which offset this smaller lot size:

1. The lots are proposed to be adjacent to either open space lands, parks or golf course lands, providing a perception of greater space for each lot.
2. Each planning area includes an average lot size, which is considerably higher than the minimum, and which ensures that a variety of lot sizes are created in each planning area to achieve the average.
3. Common area amenities, including required mini-parks within planning areas, and the common amenity of the golf course and open space lands, provide recreational opportunities for residents within the project area.

The proposed development standards are consistent with proposed standards in the draft Zoning Ordinance, and generally compatible with the development standards in the existing Zoning Ordinance. On this basis, staff believes that the proposed reduction in lot size will not negatively impact quality of life within the project, and that high quality development can occur within the project.

One planning area, number 9, proposes the construction of clustered housing. The Specific Plan allows for the development of up to 170 units on 23 acres, or a density of 7.4 units per acre. The development standards for this planning area allow two potential types of development: a small lot or townhome project, where individual lots are sold; or a condominium or apartment project, where a single parcel remains, with multiple units either owning a common interest, or being available for rent. This planning area is in the central portion of the site, and will be surrounded by either the open space created by the electrical easement on the property, or the golf course facilities. Again, the common areas available to all residents support the higher density. In addition, this planning area provides opportunities for creative design of clustered housing with interior open space. The development standards for this area include requirements for both private and common area open space within each project, in addition to those open space amenities provided to the whole community.

142

Development standards provided for the commercial and public use areas of the project are consistent with those in our commercial zones, although setbacks have been eliminated to the greatest extent possible to encourage the construction of a true "Village" commercial center, with pedestrian-friendly design and easy access from the streets. Parking requirements are proposed to conform to the requirements of the Zoning Ordinance for each type of use allowed. As with all development within the project, the City will have the opportunity to review future development to assure that designs are of high quality, and meet requirements in the Specific Plan and Zoning Ordinance.

Street Improvements

The Specific Plan proposes a hierarchy of streets, including Sunset Avenue as a four lane roadway (two 12 foot travel lanes and two 18 foot outer lanes allowing emergency parking), with dedicated left turn lane into the project for southbound traffic. Sunset is proposed to transition to a two lane roadway in the northerly 2000 feet of the project, to provide a connection to the 2 lane configuration which occurs north of the property. A sidewalk is proposed on the east side of sunset Avenue. The project is conditioned to construct the entire length of Sunset Avenue to its ultimate full width with the first phase of development, to assure that this major roadway is improved immediately as the project develops.

From Sunset Avenue, all traffic would be routed to an east-west roadway which will service all planning areas except the school site and commercial center. This spine road is proposed to be located within a 120 foot right of way, and will include a 50 foot median, two travel lanes, and 10 foot sidewalks.

Within the project, collector streets are proposed to include a 40 foot paved width, a five parkway on one side (without sidewalk) and a fifteen foot parkway on the other (with a 5 foot sidewalk with 5 feet of landscaping on each side), within a 60 foot right of way.

Local streets are proposed to have a 40 foot paved width, no sidewalks, and a 5 foot parkway on each side, for a total right of way of 50 feet. Staff is concerned that with a parkway of only 5 feet, there will not be sufficient space for public utilities (our standard public utility easement on local streets is 10 feet throughout the City), and has conditioned the Specific Plan to be amended to include 10 foot parkways on each side.

The local streets are not proposed to include sidewalks, which is consistent with the "rural" character of the bench area. Also, in looking at the street layouts, and the low levels of traffic within each single family planning area, staff believes that sidewalks are not needed in the single family areas. In planning area 9, however, where up to 170 units in a more dense setting are proposed, staff would recommend that sidewalks be included on one side of the local streets, to allow for safe pedestrian access through this area. The sidewalk can be accommodated within the 10 foot parkway conditioned in the previous paragraph, without adding right of way.

Open Space

143

As discussed above, a number of open space and park facilities are proposed within the project site. These include open space on the north, east and south edges of the project; open space areas under the electric transmission line easement through the center of the property which will include trails, an 8 acre community park, and four acres of the golf course; and 7.5 acres of mini-parks required in planning areas 2, 3, 5, 6, 7, and 8. In addition, the Specific Plan includes provisions for the conversion of the public use area reserved for a school site to be converted to park lands, should the School District not use the land, or a portion thereof, for a school site.

Flood Control

The master drainage plan for the site proposes to convey storm flows through the golf course. As is commonly the case with flood control in the City, the project is conditioned to receive approval of the master flood control system from both the City and the Riverside County Flood Control District (RCFC). As the project components are refined, additional detail will be added to the plans. Individual projects will also be required to tie into the master system, and to provide for on-site retention where necessary. All these components of the flood control system within the project site will be reviewed and approved by both the City Engineer and the RCFC throughout the development of the site. This ongoing review will assure that the cumulative impacts of later phases of development are adequately addressed through to build-out of the site.

Sanitary Sewers

The project site is not served by sanitary sewer service currently, and its extension would be topographically difficult and costly. The Specific Plan therefore includes an on-site sewage treatment plant with a reclaimed water component. The plant will be located in the open space area on the south portion of the site. The plant will be able to treat all on-site sewage, and will be expandable in the future to treat sewage from surrounding development. The plant will also include facilities to reclaim water for irrigation purposes. It is estimated that the plant will generate approximately 242.000 gallons per day, or 270 acre feet per year, of reclaimed water at the site.

Domestic Water

Domestic water for the project site will be provided by the City. Since the project exceeds 500 residential units, a Water Supply Assessment (WSA) was prepared for the project. The WSA identified that the proposed project will generate a demand for domestic water of 1,259 acre feet per year, including residential, commercial, public, and irrigation water needs. Of this total, 541 acre feet per year is required for interior use, and 718 is required for irrigation of the golf course, parks and open space area. The proposed project will be able to provide reclaimed irrigation water for the golf course and open space areas equivalent to 270 acre feet per year because of the facilities to be installed as part of the on-site sanitary sewer system within the project. Although reclaimed water cannot be used as potable water, it will reduce the potable water demand for landscaping irrigation from 718 acre feet per year to 448 acre feet per year, for a total net demand of 989 acre feet per year.

144

The WSA determined that based on the City's Urban Water Management Plan, there is sufficient water available to result in a surplus of water throughout the project's life. The WSA includes in its calculations both current and future water sources, including the purchase of State Water Project water, construction of facilities to deliver this water, construction of facilities to reclaim water at the City's wastewater treatment plant, and expansion of the on-site treatment plant to generate additional reclaimed water from surrounding development. The City's recent increase in water connection charges has been designed to pay for these additional water sources, which all require the construction of additional facilities. The development of project phases in the future will contribute to these funds, and will help to generate the funds necessary to bring additional water to the City.

In order to assure that the analysis is correct once development occurs, however, the Specific Plan has been conditioned to require annual analysis of actual water demand, and adjustment of demand projections, and comparison to actual water supplies, until build out of the project.

Planning Commission Discussion

In its consideration of the Specific Plan, the Planning Commission considered a number of issues, and in its motion for approval, recommended that three conditions of approval be added, as follows:

1. A condition of approval is added which requires the project proponent to rough grade the site for the school if the proponent and the Banning Unified School District come to an agreement for a school site within the project area.
2. A condition of approval is added which replaces the use of wood siding in the development standards to "wood like" siding, in order to lower the potential fire hazards associated with wood siding.
3. A condition of approval is added which requires, rather than suggests, that water conserving measures be applied to the construction and maintenance of the golf course.

Development Agreement

As previously stated, the original Development Agreement for this project site was approved in 1995 (Attachment D). Development Agreements are contracts between cities and private parties which set the parameters for development. As with any contract, the parties are free to negotiate amendments as conditions change.

The current proposed Amendment #1, attached to this staff report as Attachment E, adds a provision to the Development Agreement regarding the payment of an in lieu fee in the amount of $3,650,000.00, to be paid at a rate of $7,000.00 per unit for the first 522 units constructed on the property.

This in lieu fee is added to provide for increases or additions in development fees since the original Agreement was signed. At the time of the original Agreement, Loma Linda was exempted from paying any additional or increased fees which might be approved by

145

the City after approval of the Agreement. A flat in-lieu fee is being added to the Development Agreement to provide the City with funds through which services can be provided for the project and surrounding community. The fees have been the subject of an ongoing negotiation between the City and the University, and represent a mutually agreed upon amount for the provision of public services.

Environmental Review

An Environmental Impact Report (EIR) was prepared for the proposed project. The EIR analysis included all required aspects of the environmental review required under CEQA. The EIR found potential significant impacts associated with implementation of the project in the areas of Land Use and Planning, Geology and Soils, Hydrology and Water Quality, Air Quality, Noise, Biological Resources, Transportation, Aesthetics, Agricultural Resources, Cultural Resources, Hazards and Hazardous Waste, Public Services, Recreation, and Utilities. The EIR included mitigation measures, including changes to the design of the project, which reduced potential impacts to less than significant levels under all categories except Land Use, Air Quality, Noise and Aesthetics. Each of the areas where unmitigated impacts will persist are summarized individually below (please see full discussion under each category of the EIR).

Land Use

The development of a large parcel of land has the potential to generate growth pressures for adjacent lands, which could convert lands currently in open space into developed lands. In addition, the extension of infrastructure to an area which currently has limited services could cause an increase in the amount of development which could occur in the area surrounding the proposed project. The EIR considered this impact significant, and could not mitigate the impact to less than significant levels.

Air Quality

The EIR found that although mitigation measures included in the document would reduce both construction and operational emissions associated with the proposed project, those impacts could not be mitigated to a less than significant level. The EIR finds that carbon monoxide, reactive organic gases, nitrogen oxides, particulates and sulfur oxides will exceed thresholds of significance established by the SCAQMD for these chemicals during the construction of the proposed project; and that carbon monoxide, reactive organic gases, and nitrogen oxides will exceed thresholds of significance established by the SCAQMD for these chemicals during the operation of the proposed project.

Noise

The EIR found that cumulative development (development of this project as well as development of other projects in the City) will result in increased noise levels beyond the acceptable 65 dBA CNEL noise level for existing residences south of the proposed project (for a listing of impacted areas, please see the EIR page V-59). These impacts will occur with or without implementation of the proposed project, and can not be mitigated to less than significant levels.

146

Aesthetics

The development of the proposed project will result in the widening of Sunset Avenue, and the cutting of the adjacent hillside and construction of retaining walls to allow roadway construction. The EIR found that even with the addition of landscaping, the potential visual impacts associated with construction of retaining walls would be significant, and the impact could not be mitigated to less than significant levels.

As a result of these unmitigated impacts, CEQA requires that should the City wish to approve the project, a Statement of Overriding Considerations be adopted in conjunction with the certification of the EIR. A Statement of Overriding Considerations is a series of findings which explain the impacts of the project, the benefits of the project as a whole, and weigh the benefits and impacts to determine that the benefits outweigh the impacts.

Planning Commission Action

The Planning Commission considered the project at its meeting of August 2nd, 2005. The Planning Commission heard all testimony on the matter, and moved to recommend approval of the project to the City Council. The Planning Commission also directed staff to prepare the Statement of Overriding Considerations for the Council's consideration. The text of the "Findings of Fact and Statement of Overriding Considerations" is attached to the EIR resolution for the City Council's consideration.

Respectfully submitted,

Nicole Sauviat Criste

Nicole Sauviat Criste
Consulting Planner

Attachments:

A. Specific Plan/EIR for the Banning Bench (distributed to the Council some months ago)
B. Response to Comments – (Under Separate Cover)
C. Proposed Development Standards
D. 1995 Development Agreement
E. Development Agreement Amendment #1

147

RESOLUTION NO. 2005-106

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT SCH NO. 2001061131, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATION, AND A MITIGATION MONITORING PROGRAM AND STATEMENT OF FACTS AND FINDINGS FOR SPECIFIC PLAN 04-201 (THE BANNING BENCH SPECIFIC PLAN)

WHEREAS, an application for amendment to a Development Agreement, setting forth the development parameters on 600 acres, has been duly filed by:

Applicant / Owner:	Loma Linda University
Authorized Agent:	N/A
Project Location:	North of Wilson Street, on the east side of Sunset Avenue
APN Number:	531-060-014 through -017, 531-060-032 through -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 through -019, 535-060-002, 535-060-005
Lot Area:	600 Acres

WHEREAS, the proposed Banning Bench Specific Plan, General Plan Amendment, Zone Change and Development Agreement Amendment are considered "projects" as defined by the California Environmental Quality Act, Public Resources Code § 21000 et seq. ("CEQA"); and,

WHEREAS, the City of Banning has reviewed Banning Bench Specific Plan and associated applications to allow the development of 944 residential units, commercial, public and open space uses on 600 acres located north of Wilson Street and east of Sunset Avenue, in accordance with the authority granted by the California Government Code and Banning Municipal Code; and

WHEREAS, after completion of an Initial Study, the Planning Director determined that there was substantial evidence that the Banning Bench Specific Plan and associated applications may have one or more significant effects on the environment and that preparation of an Environmental Impact Report ("EIR") was therefore warranted under Public Resources Code § 21080(d) and § 21082.2(d); and,

WHEREAS, the City has consulted with, and requested comments from, members of the public and the agencies and persons referenced in CEQA Guidelines § 15083, [§ 15083.5 and § 15086; and,

WHEREAS, upon completion of the Draft EIR, the City provided notice of completion to OPR on August 20, 2004, as required under CEQA Guidelines § 15085 and provided notice of availability on August 20, 2004as required under CEQA Guidelines § 15087; and,

WHEREAS, the Draft EIR was circulated to the public, responsible agencies and other interested parties as required by CEQA Guidelines § 15087 for a period of 45 days commencing on August 20, 2004 and closing on October 4, 2004 in accordance with CEQA Guidelines § 15105(a); and,

WHEREAS, before the close of the public comment period the City received ten written responses; and,

WHEREAS, the Final EIR consists of the following documents: the Draft EIR, the Initial Study, Technical Appendices, Written Comments and Response re the Draft, the Mitigation Monitoring and Reporting Program, the Statement of Overriding Considerations; and,

WHEREAS, the Banning Planning Commission conducted a duly noticed public hearing on August 2nd, 2005, at which it received public testimony concerning the project and the Final EIR and recommended the certification of the Final EIR and adoption of a Statement of Overriding Considerations and Mitigation Monitoring Program; and

WHEREAS, the Banning City Council conducted a duly noticed public hearing on September 27, 2005, at which it received public testimony concerning the project and the Final EIR and considered the Final EIR.

NOW THEREFORE, the City Council of the City of Banning, does hereby resolve, determine and order as follows:

SECTION 1. FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the Final EIR, all documents incorporated by reference therein, any comments received and responses provided, the Mitigation Monitoring Program, the Statement of Facts and Findings, and other substantial evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record and/or provided at the public hearing, hereby finds and determines that:

1. **Preparation of EIR:** An Environmental Impact Report was prepared for the Banning Bench Specific Plan after completion of an Initial Study in accordance with Public Resources Code § 21080(d) and § 21082.2 and the EIR was prepared and processed in accordance with the California Environmental Quality Act (Public Resources Code § 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations § 15000 et seq.), and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.

2. **Notice:** The City has complied with CEQA Guidelines § 15085 and §15087 by providing a Notice of Completion of the Draft EIR to OPR and a Notice of Availability to responsible and trustee agencies and other persons and agencies as required.

3. **Review Period:** The City has complied with CEQA Guidelines §§ 15087 and 15105 by making the Draft EIR available to the public for review for the required period of time.

4. **Response to Comments:** The City has responded to all written comments received during the public review period and included both comments and responses as part of the Final EIR. In response to these comments, the City has made minor revisions to the Final EIR. These revisions are identified in the responses and do not constitute significant additional information and do not require recirculation of the EIR.

5. **Statement of Overriding Considerations**: The Final EIR identifies potentially significant effects on the environment that could result if the project were adopted without changes or alterations in the project and imposition of mitigation measures. Based thereon, the City Council further finds that although mitigation measures are proposed which will reduce most impacts associated with the proposed project, impacts associated with Land Use, Air Quality, Noise and Aesthetics cannot be mitigated to less than significant levels, and a Statement of Overriding considerations is adopted, and attached to this Resolution as Exhibit A.

6. **Independent Judgment:** The Final EIR reflects the independent judgment and analysis of the City.

SECTION 2. MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP)

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area.

SECTION 3. CITY COUNCIL ACTION.

Based on the foregoing findings, and on substantial evidence in the whole of the record, the City Council hereby takes the following actions:

1. **Certify EIR:** The City Council approves and certifies the Final Environmental Impact Report No. (SCH NO. 2001061131) for the Banning Bench Specific Plan.

2. **Adopt Statement of Overriding Considerations:** The City Council approves and adopts the Findings of Fact and Statement of Overriding Considerations for the Final EIR.

3. **Adopt MMP:** The City Council approves and adopts the Mitigation Monitoring Program for the Final EIR.

4. **Notice of Determination:** The City Council, in compliance with Public Resources Code § 21152 and CEQA Guidelines § 15094, directs the Planning Director to prepare a Notice of Determination concerning certification of the Final EIR, and within five (5) days of project approval, file the Notice with the Riverside County Clerk for posting.

5. **Location:** The City Council directs that the Final Environmental Impact Report (SCH NO. 2001061131) and all documents incorporated therein and forming the record of decision therefore, be filed with the Banning Planning Department at the Banning City Hall, 99 East Ramsey Street, Banning, California, 92220 and be made available for public review upon request.

PASSED APPROVED AND ADOPTED this 27th day of September 2005.

JOHN MACHISIC, MAYOR

APPROVED AS TO FORM AND LEGAL CONTENT:

Julie Biggs,
City Attorney
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2005-106, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the ____day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning

ATTACHMENT A

MITIGATION MONITORING PROGRAM

EXHIBIT " A "

152

MITIGATION MONITORING PROGRAM

Provided on the following pages is a summary listing of the proposed mitigation measures associated with the proposed Banning Bench Specific Plan. Following each mitigation measure is an indication of the action involved with enforcement or implementation of the mitigation measure (i.e. "Specific Action"), the timing of implementation (i.e. "Mitigation Milestone") and the Responsible Monitoring Party. This Mitigation Monitoring Program is intended to reflect the requirements of AB 3180 (Cortese) which requires a monitoring program to insure the implementation of these mitigation measures.

MITIGATION MEASURE SUMMARY	SPECIFIC ACTION	MITIGATION MILESTONE	RESPONSIBLE MONITORING PARTY
A. LAND USE AND PLANNING			
A-1 Landscape plans for all residential planning areas adjacent to the site boundaries will be reviewed by the City of Banning in order to insure adequate visual buffering of proposed residences from vantage points off-site.	Review of landscape plans	Prior to the issuance of building permits	City of Banning
B. POPULATION AND HOUSING			
No mitigation measures are proposed.	–	–	–
C. GEOLOGY AND SOILS			
C-1 Prior to the issuance of grading permits, a subsurface geologic/geotechnical investigation on the subject property shall be performed. This evaluation shall include (but not be limited to) remedial removal depths, slope stability, mass wasting, fault investigations (if appropriate), liquefaction and dynamic settlement analysis, and expansion and corrosion potential so that the appropriate earthwork recommendations and grading guidelines, as well as geotechnical design parameters for foundation and retaining walls may be provided.	Perform on-site geotechnical investigations	Prior to the issuance of grading permits	City of Banning
C-2 Should any proposed future utilities cross the San Gorgonio Pass fault zone, adequate cut-off valves, or similar measure, shall be provided on either side of the fault crossing to facilitate repair in the event of rupture. Such utility crossing shall be designed at 90 degree angles to the fault.	Provision of shut-off valves or similar measures if utilities cross the fault zone	Prior to the issuance of grading permits	City of Banning

153

EXHIBIT " A "

C-3	All proposed construction shall comply with updated seismic parameters per Chapter 16 of the Uniform Building Code (International Conference of Building Officials, 1997).	Compliance with seismic parameters per the Uniform Building Code	Prior to the issuance of building permits	City of Banning

D. HYDROLOGY AND WATER QUALITY

D-1	Prior to the issuance of grading permits or tract map recordation, a detailed hydraulic study shall be submitted to the City of Banning for review and approval which includes a drainage plan for each development phase. The recommendations contained in this drainage analysis will be used in the design of the proposed on-site drainage improvements. The hydraulic study shall adhere to the existing natural on-site drainage patterns to the extent feasible, including the character of flows, particularly as it discharges onto downstream properties.	Submittal of a detailed hydraulic study	Prior to the issuance of grading permits or tract map recordation	City of Banning
D-2	Surface drainage gradients on-site shall be planned to prevent ponding and promote drainage of surface water away from building foundations, edges of pavements and sidewalks. During grading, if the presence of free water is noted, sub-drains shall be placed in areas of potential standing water. The location of sub-drains shall be determined during grading by a qualified engineer. The sub-drain outlets shall extend into a suitable protected area or existing drainage facilities.	Proper planning of surface drainage	Prior to the issuance of grading permits	City of Banning
D-3	Roadside shoulders beyond the edge of pavement shall only be used for minor road embankment runoff and emergency overflows from underground pipe systems. Additional drainage swales, inlets and channels will be provided on grading plans in order to handle sheet flows that would otherwise be directed across roads.	Provision of adequate drainage facilities to handle sheet flows	Prior to the issuance of grading permits	City of Banning
D-4	Prior to the issuance of grading permits or tract map recordation, a detailed hydraulic study shall be prepared for the site identifying the appropriate 100-year flood-plain boundaries, both before and after development of the proposed project.	Preparation of detailed hydraulic study	Prior to the issuance of grading permits	City of Banning
D-5	Prior to the issuance of grading permits, a Sedimentation and Erosion Control Plan shall be submitted to the City of Banning for	Submittal of a Sedimentation and Erosion	Prior to the issuance of grading permits	City of Banning

EXHIBIT "A"

154

	review and approval. The plan shall indicate methods to control erosion which may include, but are not limited to, erosion fencing, hay bales, temporary siltation basins, erosion control blankets, etc.	Control Plan		
D-6	Any required replacement vegetation/ landscaping shall be planted well in advance of the rainy season in order to provide sufficient time prior to the rainy season for roots to establish and effectively hold soil together.	Plant replacement vegetation/ landscaping prior to the rainy season	During project grading and construction	City of Banning
D-7	Erosion protection of soil surfaces shall be provided adjacent to the edges of roads, curbs and sidewalks and in other areas where "hard" edges of structures may cause concentrated flow of surface water runoff. Erosion resistant matting such as Miramat or other similar products shall be used for the lining of any on-site drainage swales.	Provision of erosion protection and lining of on-site drainage swales	During project grading and construction	City of Banning
D-8	Prior to the issuance of grading permits, applications for a construction Storm Water Discharge General Permit shall be submitted to the Regional Water Quality Control Board. This permit request will be accompanied by an indication of construction site erosion control practices, soil tracking control methods and practices, and moisture control of surfaces for dust control. This permit request will comply with all the drainage protection measures and procedures of the on-site Storm Water Pollution Prevention Plan (SWPPP).	Submittal of applications for Storm Water Discharge General Permit	Prior to the issuance of grading permits	City of Banning
D-9	Project grading and drainage plans shall include the following note: "No construction work will be permitted in any flowing channel and no graded material or debris will be placed within existing storm drain channels. All work within seasonally dry streambeds shall be in accordance with permits issued by the City of Banning and the Regional Water Quality Control Board and other State and Federal regulatory agencies as required."	Include notes on grading and drainage plans	Prior to the issuance of grading permits	City of Banning

EXHIBIT " A "

155

E. AIR QUALITY

E-1	Water construction site and unpaved haul roads (with reclaimed water or chemical soil binder, where feasible) twice daily and clean equipment morning and evening to comply with the AQMP Fugitive Dust Measures BCM-03 and BCM-06	Water construction site and unpaved haul roads	During project grading and construction	City of Banning and SCAQMD
E-2	Wash off trucks leaving the site to comply with the AQMP Fugitive Dust Measure BCM-01. Haul trucks leaving the site also are required to have a minimum freeboard distance of 12 inches or to cover payloads	Wash trucks leaving the construction site	During project grading and construction	City of Banning and SCAQMD
E-3	Spread soil binders on site, unpaved roads and parking areas	Spread soil binders	During project grading and construction	City of Banning and SCAQMD
E-4	Apply chemical soil stabilizers according to manufacturer's specifications to all inactive construction areas (previously graded areas which remain inactive for 96 hours).	Apply chemical soil stabilizers	During project grading and construction	City of Banning and SCAQMD
E-5	Reestablish ground cover on construction site through seeding and watering on portions of the site that will not be disturbed for lengthy periods (such as two months or more).	Reestablish groundcover on construction site	During project grading and construction	City of Banning and SCAQMD
E-6	Sweep streets if silt is carried over to adjacent public thoroughfares.	Sweep streets	During project grading and construction	City of Banning and SCAQMD
E-7	Reduce traffic speeds on all unpaved road surfaces to 15 miles per hour or less	Restrict speed of construction traffic	During project grading and construction	City of Banning and SCAQMD
E-8	Suspend grading operations during first and second stage smog alerts	Suspend grading operations during smog alerts	During project grading and construction	City of Banning and SCAQMD
E-9	Suspend all grading operations when wind speeds (as instantaneous gusts) exceed 25 miles per hour	Suspend grading operations when winds exceed 25 mph	During project grading and construction	City of Banning and SCAQMD
E-10	Maintain construction equipment engines by keeping them tuned	Maintain construction equipment engines	During project grading and construction	City of Banning and SCAQMD
E-11	Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators	Use existing power sources or clean generators	During project grading and construction	City of Banning and SCAQMD

EXHIBIT " A "

156

E-12	Provide on-site power sources during the early stages of the project.	Provide on-site power sources	During project grading and construction	City of Banning and SCAQMD
E-13	Configure construction parking to minimize traffic interference.	Minimize construction traffic interference	During project grading and construction	City of Banning and SCAQMD
E-14	Provide a flagperson to properly guide traffic and ensure safety at construction sites	Provide a flagperson	During project grading and construction	City of Banning and SCAQMD
E-15	Schedule operations affecting traffic for off-peak hours, where feasible	Schedule construction traffic for off-peak hours	During project grading and construction	City of Banning and SCAQMD
E-16	Develop a traffic plan to minimize traffic flow interference from construction activities (the plan may include advance public notice of routing)	Develop a traffic plan	During project grading and construction	City of Banning and SCAQMD
E-17	Schedule construction goods movements for off-peak hours	Schedule construction goods movements for off-peak hours	During project grading and construction	City of Banning and SCAQMD
E-18	Schedule truck deliveries and pickups during off-peak hours.	Schedule truck deliveries and pickups during off-peak hours	During project grading and construction	City of Banning and SCAQMD
E-19	Provide adequate ingress and egress at all entrances to public facilities to minimize vehicle idling at curbsides.	Provide adequate ingress and egress to public facilities	During project grading and construction	City of Banning and SCAQMD
E-20	Provide dedicated turn lanes as appropriate and provide roadway improvements at heavily congested roadways.	Provide dedicated turn lanes	Prior to tract map recordation	City of Banning
E-21	Provide on-site services such as on-site ATMs and other similar measures that address lifestyle needs.	Provide on-site services	Prior to tract map recordation	City of Banning
E-22	Improve thermal integrity of the buildings and reduce thermal load with automated time clocks or occupant sensors.	Improve thermal Integrity of buildings	Prior to issuance of building permits	City of Banning

EXHIBIT " A "

157

E-23 Install energy efficient street lighting.	Install energy efficient street lighting	Prior to tract map recordation	City of Banning
E-24 Provide lighter color roofing and road materials and tree planting programs to comply with the AQMP Miscellaneous Sources MSC-01 measure.	Provide lighter color roofing and road materials	Prior to the issuance of building permits	City of Banning
E-25 Comply with the AQMP Miscellaneous Sources PRC-03, and Stationary Sources Operations Enhanced Inspection and Maintenance and ADV-MISC to reduce emissions of restaurant operations.	Comply with AQMP regulations	Prior to the issuance of building permits	City of Banning
E-26 Provide local shuttle and transit shelters, and ridematching services.	Provide local shuttle and transit shelters	Prior to tract map recordation	City of Banning
E-27 Provide bicycle lanes, storage areas, and amenities and ensure efficient parking management.	Provide bicycle lanes and storage areas	Prior to tract map recordation	City of Banning
E-28 Provide preferential parking to high occupancy vehicles and shuttle services and designate additional car pool or vanpool parking.	Provide preferential parking and shuttle services	Prior to tract map recordation	City of Banning
E-29 Employers should provide variable work hours and telecommuting to employees to comply with the AQMP Advanced Transportation Technology ATT-01 and ATT-02 measures.	Provide variable work hours and telecommuting	Prior to tract map recordation	City of Banning
E-30 Develop a trip reduction plan to comply with SCAQMD Rule 2202.	Develop a trip reduction plan	Prior to tract map recordation	City of Banning
E-31 Employers should provide ridematching, guaranteed ride home, or car or vanpool to employees as a part of the TDM program and to comply with the AQMP Transportation Improvements TCM-01 measure.	Provide TDM Program	Prior to tract map recordation	City of Banning
E-32 Employers should provide compensation, prizes or awards to ridesharers, including subsidizing costs or provide compensation to employees who carpool and vanpool.	Provide incentives for carpools and vanpools	Prior to tract map recordation	City of Banning

EXHIBIT " A "

158

F. NOISE

F-1	Construction and grading activities shall comply with the City of Banning Noise Ordinance. Grading activities within 1,600 feet of residential areas shall be limited to daytime hours as defined by the Noise Ordinance (7:00 AM to 10:00 PM) to insure that the noise generated by grading will not exceed the City's Noise Ordinance Limits.	Compliance with City Noise Ordinance	During project grading and construction	City of Banning
F-2	When detailed architectural drawings become available, an analysis shall be performed to ensure that the 45 CNEL interior residential noise standard is met in all residences. This analysis shall be prepared by a qualified acoustical engineer and shall be approved by the City of Banning prior to building permit issuance. Homes in the first row within 344 feet of Sunset Avenue south of the Main Entrance Road (Planning Area 7), 238 feet of Sunset Avenue north of the Main Entrance Road (Planning Area 1) and 194 feet of the Main Entrance Road (Planning Area 9) shall provide adequate ventilation per the Uniform Building Code to allow windows to remain closed and achieve the 45 CNEL interior residential noise standard. These areas are shown in Figure 45, On-Site Noise Mitigation. Means of adequate ventilation shall be incorporated into the architectural drawings for these homes and verified by the City prior to issuance of building permits. Typically, air conditioning systems satisfy the ventilation requirements.	Perform interior noise analyses	Prior to the issuance of building permits	City of Banning
F-3	When final grading plans become available, an analysis shall be performed to determine the exact height and location of barriers required to achieve the 65 CNEL exterior residential noise standard. This analysis shall be prepared by a qualified acoustical engineer and be reviewed and approved by the City of Banning prior to grading permit issuance.	Determine exact height and location of noise barriers	Prior to the issuance of building permits	City of Banning
F-4	A buyer notification program shall be implemented for potential buyers and renters of residential properties in the project. The notification shall be presented to and acknowledged by the potential buyer or renter and describe the golf course maintenance activities with special emphasis on the early morning greens mowing	Implement Buyer Notification Program	Prior to the issuance of building permits	City of Banning

159

EXHIBIT " A "

	operations and any other early morning activities.			
F-5	Noise generated by activities at the Maintenance Facility shall not exceed the Noise Ordinance limits at the nearby residences. Prior to issuance of building permits for the Maintenance Facility, a detailed noise study shall be prepared and approved by the City of Banning. The noise study shall describe the sources of noise from the facility and any measures required so that the noise levels will not exceed the Noise Ordinance.	Prepare detailed noise study for Maintenance Facility	Prior to the issuance of building permits	City of Banning
F-6	If it is determined that the Black Bench project will not be developed, the project will result in a significant noise impact, and a detailed Mitigation Study and Implementation Plan shall be developed. The Mitigation Study shall examine, in detail, the feasibility of locating noise barriers to reduce traffic noise levels along Sunset Avenue between Nicolet Street and Wilson Street. Detailed topographic maps of the area will need to be produced. Heights and locations of feasible barriers to reduce traffic noise levels to the City's 65 CNEL standard shall be determined and described. Areas where barriers are not feasible shall be determined and described, in detail, why they are not feasible and which options were examined. This Plan shall be prepared by a qualified acoustical consultant and submitted and approved by the City prior to issuance of the first building permit for the project. At the same time, an Implementation Plan describing the required steps and timeline for implementing the required noise barriers shall be submitted to the City. The substantial noise level increase will occur when more than 34% of the project is developed in terms of trip generation. The Implementation Plan shall demonstrate complete implementation of all feasible mitigation measures prior to issuance of building permits for more than 25% of the project in terms of trip generation. The City should verify that all of the feasible mitigation is implemented prior to issuance of building permits for more than 25% of the project in terms of trip generation. If it is determined that the Black Bench	Develop noise mitigation study and implementation plan	Prior to the issuance of building permits	City of Banning

160

EXHIBIT " A "

	project will be developed, the detailed Mitigation Study and Implementation Plan shall also include a determination of the pro-rata share of costs for all required noise barriers or other improvements. Each project shall be responsible for their pro-rata share of these costs.			

G. BIOLOGICAL RESOURCES

G-1	Impacts upon on-site riparian woodlands can be reduced or eliminated through one of the two options: a) revisions to the proposed project plans to relocate and/or redesign golf holes 5, 6 and 8 of the proposed golf course or b) provision of replacement habitat on-site at a 2:1 replacement ratio throughout the proposed golf course. Project redesign will require provision of a 50 foot buffer between identified riparian vegetation and the proposed golf course. Residential lots would be located closer than 200 feet from identified riparian vegetation. In addition, the tee for golf hole 6 should be located so that the golf cart path from the tee avoids going through riparian woodland vegetation. In the event that the proposed project cannot be redesigned to totally avoid riparian habitats, the project applicant will be subject to the permit requirements of the California Department of Fish and Game and the U.S. Army Corps of Engineers. Any riparian woodland vegetation lost due to project development will be replaced on-site at a 2:1 replacement ratio. These replacement habitat areas will be located throughout the proposed golf course.	Revise project plans and/or provide replacement riparian habitat on-site	Prior to the issuance of grading permits	City of Banning, California Department of Fish and Game and U.S. Army Corps of Engineers
G-2	In order to further minimize impacts to riparian areas during project grading, a biologist shall supervise the placement of orange construction fencing or the equivalent along the proposed grading limits as indicated on the approved grading plans. All construction activities shall take place only inside the fenced area. Grading materials shall be stored either inside the fenced development area or in an area approved by the project biologist.	Supervise placement of construction fencing or equivalent along grading limits	During project grading and construction	City of Banning, California Department of Fish and Game and U.S. Army Corps of Engineers
G-3	Prior to any grading or vegetation clearing, a directed survey shall be conducted to locate	Conduct surveys to locate active	Prior to the issuance of	City of Banning, California

EXHIBIT " A "

161

	any active raptor nests. If active raptor nests are present, no grading or removal of habitat will take place within 200 feet of active nesting sites during the nesting/breeding season.	raptor nests	grading permits	Department of Fish and Game and U.S. Army Corps of Engineers
G-4	Prior to issuance of the project grading permits, the U.S. Army Corps of Engineers and the California Department of Fish and Game will be notified of potential impacts to jurisdictional areas and all appropriate permits and mitigations associated with impacts to these areas will be acquired.	Notify regulatory agencies of potential impacts and required permits and mitigations	Prior to the issuance of grading permits	City of Banning, California Department of Fish and Game and U.S. Army Corps of Engineers
G-5	The project biologist shall meet with the owner/permittee or designee and the construction crew to conduct an on-site educational session regarding the need to avoid impacts outside of the approved grading area.	Conduct on-site educational session	During project grading and construction	City of Banning
G-6	During project grading, Best Management Practices for erosion control shall be implemented and monitored as needed to prevent any significant transport. These practices may include but may not be limited to the following: the use of materials such as sandbags, sediment fencing and erosion control matting to stabilize disturbed areas, and installation of erosion control materials.	Implement Best Management Practices for erosion control	During project grading and construction	City of Banning

H. TRANSPORTATION/TRAFFIC

H-1	Sunset Avenue shall be constructed adjacent to the project site at its ultimate width from Wilson Street to a point near the northern project boundary with two 12 foot travel lanes and a 4 foot painted median. In addition, a curb lane on each side of the roadway with 18 feet (for emergency parking) will have a total width of 64 feet curb-to-curb. One side of the street should be provided with a sidewalk.	Construct Sunset Avenue to ultimate width	Prior to tract map recordation	City of Banning
H-2	A 150-foot long southbound left turn lane with a 90-foot transition shall be striped for traffic on Sunset Avenue desiring to turn left into the Project Main Entrance.	Provide southbound left turn lane on Sunset Avenue	Prior to tract map recordation	City of Banning
H-3	A 150-foot long northbound left turn lane with a 90-foot transition shall be striped on Sunset Avenue to serve the secondary access.	Provide northbound left turn lane on Sunset Avenue	Prior to tract map recordation	City of Banning

EXHIBIT "A"

162

H-4	On-site traffic signing and striping shall be provided in conjunction with detailed construction plans for the project.	Provide on-site signing and striping	Prior to tract map recordation	City of Banning
H-5	Sight distance at each project access shall be reviewed with respect to standard CalTrans/City of Banning sight distance standards at the time of preparation of final grading, landscape and street improvement plans.	Provide adequate sight distances	Prior to tract map recordation	City of Banning
H-6	On-site parking shall be provided to meet City of Banning parking code requirements.	Provide required on-site parking	Prior to tract map recordation	City of Banning
H-7	The City of Banning should periodically review traffic operations in the vicinity of the project once the project is constructed in order to insure that the traffic operations are satisfactory. The proposed project shall be responsible for any additional roadway and/or intersection improvements resulting from this periodic review in order to maintain satisfactory traffic operations.	Provide periodic review of traffic operations	Subsequent to project occupancy	City of Banning
H-8	The project shall participate in the phased construction of off-site traffic signals through payment of traffic signal mitigation fees. The traffic signals within the study area at buildout should specifically include an interconnect of the traffic signals in order to function in a coordinated system.	Pay traffic signal mitigation fees	Prior to tract map recordation	City of Banning

I. AESTHETICS

I-1	Landscape plans for all residential planning areas adjacent to the site boundaries will be reviewed by the City of Banning to insure adequate visual buffering of proposed residences from vantage points off-site.	Review of landscape plans to insure adequate visual buffering	Prior to tract map recordation	City of Banning
I-2	All proposed uses within the Village Office/Commercial Center (Planning Area 10), the Quasi-Public Use Area (Planning Area 11) and the Project Sales Center (Planning Area 12) shall be subject to design review by the City of Banning prior to approval of Land Use Permits.	Design review of proposed commercial uses	Prior to issuance of building permits	City of Banning
I-3	Prior to Tentative Tract Map or Land Use Permit approval, an Exterior Lighting Plan	Submit Exterior Lighting Plan	Prior to tract map	City of Banning

163

EXHIBIT "A"

	shall be submitted to the City of Banning for review and approval which will indicate the height, location and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the interior reflector surface is visible from areas off-site. All exterior light sources shall be low-level and adjusted so that light is directed away from any adjacent properties. The height of freestanding outdoor lighting fixtures shall be limited to 20 feet. Security lighting shall be shielded so as not to create glare when viewed from areas adjacent to the project site.		recordation or issuance of building permits	
I-4	All project lighting shall be in accordance with applicable City of Banning standards, including Ordinance No. 655 regarding Mt. Palomar Observatory standards.	Design project lighting in accordance with City standards	Prior to tract map recordation or issuance of building permits	City of Banning

J. AGRICULTURAL RESOURCES

J-1	Project plans for all planning areas adjacent to the site boundaries will be reviewed by the City of Banning in order to insure provision of adequate fencing or other barriers to unauthorized entry on adjacent properties.	Review project plans for areas adjacent to site boundaries	Prior to tract map recordation or issuance of building permits	City of Banning

K. CULTURAL RESOURCES

K-1	During any grading or excavation associated with the project, if any cultural materials are unearthed, work in that area shall be halted until all cultural materials can be examined by a qualified archaeologist and appropriate recommendations made.	Halt work in areas where cultural materials are unearthed	During project grading and construction	City of Banning

L. HAZARDS AND HAZARDOUS WASTE

L-1	During project grading inspections, any undocumented wells will be capped and the removal of any existing, undocumented fills shall be monitored by a qualified soils geologist. In the event that any toxic or hazardous materials are discovered, qualified authorities shall be contacted immediately. Any required remediations, soils removal or other required actions shall occur prior to completion of project grading in accordance with applicable local, State or Federal regulations.	Cap undocumented wells and remove existing undocumented fills	During project grading and construction	City of Banning

EXHIBIT " A "

164

L-2	Prior to the approval of proposed on-site commercial uses, the City of Banning and any other appropriate County or State agencies shall review proposed project plans to determine the potential for existence or use of toxic materials and potential adverse effects from exposure to toxic substances from these future commercial uses. Particular impacts which may occur include degradation of air and water quality, public health, or transportation systems. Required measures may include specific requirements for the indoor storage, handling, transportation, or disposal of toxic substances.	Review project plans for existence or use of toxic materials	Prior to the issuance of building permits	City of Banning and County of Riverside, Department of Environmental Health
L-3	The proposed Village Office/Commercial Center, once operating, will adhere to the standards and requirements of the Occupational Safety and Hazards Administration (OSHA), Cal OSHA, the U.S. Environmental Protection Agency (EPA), and the County of Riverside, Department of Environmental Health.	Adhere to State, Federal and County Health and Safety standards	Prior to the issuance of building permits	City of Banning and County of Riverside, Department of Environmental Health

M. PUBLIC SERVICES

• ***Police Protection***				
MP-1	Prior to the issuance of building permits, the City of Banning Police Department shall review final development plans and architectural elevations in relation to the following issues: access for patrol vehicles and officers on-foot, proper illumination of entryways and parking areas and illuminating "dark areas" where crimes could occur.	Review final development plans and architectural elevations	Prior to the issuance of building permits	City of Banning
MP-2	One acre within the proposed Quasi-Public Use Area will be irrevocably dedicated to the City of Banning for a police/fire station site. The precise location of the facility will be subject to separate agreement between the landowner and the City of Banning.	Dedicate police/ fire station site	Prior to tract map approval	City of Banning
• ***Fire Protection***				
MF-1	Emergency-only access roadways shall be provided at five locations. The emergency access roadway at the northeast corner of the project site (Planning Area 5) leading to Bluff Street will be designed as a local public roadway with a 32-foot paved section. The remaining emergency access roads will consist of 20-foot two-lane	Provide emergency only access roadways at five locations	Prior to tract map recordation	City of Banning

165

EXHIBIT "A"

	paved roadways. Each of these emergency access roadways will be equipped with an emergency gate which will be activated by the City Fire Department and will allow for emergency vehicle ingress or resident egress and will be capable of supporting 65,000 pound gvw vehicles in all weather conditions. These access points shall be shown on Tentative Tract Maps for the respective residential planning areas and shall be approved by the City Fire Department.			
MF-2	All water mains and fire hydrants providing required fire flows shall be constructed in accordance with the standards and requirements of the City of Banning subject to approval by the City Fire Department. Fire hydrants must be spaced no more than 300 feet apart and must provide a minimum flow of 1,500 gallons per minute (gpm) for a two hour period. These requirements may be reduced if interior sprinkler systems are installed subject to approval by the City Fire Department.	Construct water mains and fire hydrants in accordance with City standards and requirements	Prior to the issuance of building permits	City of Banning
MF-3	All structures shall be constructed with Class A fire retardant roof materials and spark arresters on all chimneys.	Utilize Class A fire retardant roof materials	Prior to the issuance of building permits	City of Banning
MF-4	Lots that are within planning areas adjacent to open space will be developed in accordance with a fire management plan that provides adequate buffering and fuel modification zones consistent with City Fire Department standards and the project EIR (see Figure 19, Residential to Open Space Landscape Edge). Fuel management zones will be provided along the entire perimeter of the Banning Bench Specific Plan. These areas will undergo trimming and/or clearing of flammable native vegetation for a minimum distance of one-hundred (100) feet from any structure and a minimum distance of seventy-five (75) feet from any property line. No less than fifty (50) feet of these cleared areas will be planted with non-flammable ("wet-zone") vegetation with the remainder remaining clear of trees or large shrubs. The fuel management zones can be reduced through the use of concrete walls as a rear yard	Develop peripheral lots in accordance with a fire management plan	Prior to tract map recordation	City of Banning

EXHIBIT "A"

166

	edge treatment or as otherwise approved by the City Fire Department. Where residential areas are adjacent to open space areas with slopes exceeding 30%, a minimum of 50 feet of non-flammable ("wet zone") vegetation must be provided outside of any property line. Fuel modification areas can extend into private lots as long as the Homeowners Association establishes enforceable restrictions related to no additional structures (i.e. garages, barns, storage buildings, wooden decks, patio covers, etc.) within required setbacks. Maintenance of fuel management zones will be the responsibility of either the Master Homeowners Association, neighborhood association or other appropriate maintenance agency/entity approved by the City of Banning. Prior to approval of any Tentative Tract Map or Land Use Permit adjacent to natural open space areas, a Fire Management Plan will be prepared and approved by the City Fire Department which provides definition of standards, location, roadway width, emergency access, design, maintenance, timing, financing and other applicable conditions related to fire protection.			
MF-5	All structures adjacent to open space areas will be constructed with boxed, stuccoed eaves, double paned glass and no exposed vents.	Utilize stuccoed eaves, double paned glass and no exposed vents	Prior to issuance of building permits	City of Banning
MF-6	All project plans shall be reviewed by the City of Banning Fire Department in order to insure that building materials, alarm systems, emergency vehicle access (turning radii, roadway gradients), water storage, hydrant locations and brush clearance provide adequate fire protection for the proposed project.	Review project plans	Prior to tract map recordation and the issuance of building permits	City of Banning
MF-7	One acre within the proposed Quasi-Public Use Area will be irrevocably dedicated to the City of Banning for police/fire station site. The precise location of this facility will be subject to a separate agreement between the landowner and the City of Banning.	Dedicate police/ fire station site	Prior to tract map recordation	City of Banning
•	***Schools***			
MS-1	The fifteen acre Public Use Area will be offered for dedication in lieu of fees as a school site to the Banning Unified School	Dedicate 15 acre school site	Prior to tract map recordation	City of Banning and Banning Unified School District

167

EXHIBIT " A "

District. This area is considered sufficient for provision of an elementary school. Acquisition of the school site shall occur in accordance with Banning Unified School District policies in effect at the time of development. The proposed school site shall meet the requirements of the School District and the State of California Department of Education. The offer for dedication shall occur prior to the recordation of tentative tract maps.			
MS-2 Prior to tract map recordation, the project applicant shall enter into any required mitigation agreement or developer fee programs required by the Banning Unified School District. These agreements shall be based upon the laws and regulations pertaining to school facilities impact mitigation in effect at that time.	Enter into mitigation agreement or developer fee program	Prior to tract map recordation	City of Banning and Banning Unified School District
• *Solid Waste*			
MS-1 Prior to the issuance of building permits for proposed attached cluster homes, the Village Office/Commercial Center, the Quasi-Public Use Area, the Project Sales Center and the Golf Course Clubhouse, detailed plans shall be submitted to the City of Banning for review and approval delineating the number, location and general design of solid waste bin enclosures and storage areas for recycled material.	Submit detailed plans for location and design of solid waste enclosures and storage areas	Prior to the issuance of building permits	City of Banning
MS-2 The project developer(s) shall adhere to all source reduction programs for the disposal of construction materials and solid waste as required by the City of Banning.	Adhere to all source reduction programs for construction material disposal	During project grading and construction	City of Banning

N. RECREATION

N-1 Project plans shall include an eight acre community park and no less than 7.5 acres devoted to eight residential mini-parks to be located throughout or adjacent to proposed residential neighborhoods. The community park will contain a grass play area, jogging trails, exercise areas, basketball and multi purpose courts, horseshoes, croquet and shuffleboard facilities and a parking lot. In addition, the community park will contain picnic tables, barbeques, trash receptacles, security lighting and an automated irrigation system. The proposed mini-parks will range in size from 0.25 to 2.0 acres in size and will	Provide eight acre community park and 8 mini-parks	Prior to tract map recordation	City of Banning

168

EXHIBIT " A "

	contain turf, trees, irrigation, picnic areas, tot lots and restrooms. These eight mini-parks will be provided with the development phase of their respective residential planning area. The design of these facilities will be approved by the City of Banning prior to the issuance of grading permits or tract map recordation.			
N-2	The Public Use Area will be offered for dedication in lieu of fees as a school site to the Banning Unified School District. Any remaining park land will be transferred to the City of Banning. The entire Public Use Area will be transferred to the City of Banning if the school site is not accepted by the Banning Unified School District.	Dedicate park land or entire Public Use Area to the City of Banning	Prior to tract map recordation	City of Banning and the Banning Unified School District
N-3	All recreational facilities will be landscaped and irrigated in accordance with City requirements.	Landscape and irrigate recreation facilities in accordance with City standards	Prior to tract map recordation	City of Banning
N-4	All recreational facilities will provide parking in accordance with City standards.	Provide adequate parking at recreation facilities	Prior to tract map recordation	City of Banning
N-5	All park facilities and playground equipment will be constructed to meet current State and Federal safety and accessibility standards.	Adhere to State and Federal safety and accessibility standards	Prior to tract map recordation	City of Banning
N-6	Areas designated as open space will be deed restricted so as to create open space easements and prohibit grading, construction or other development activity within the open space.	Create open space easements	Prior to tract map recordation	City of Banning
N-7	Maintenance of open space areas shall be the responsibility of a Master Homeowners Association, neighborhood association, community facilities district, landscape maintenance district or other appropriate maintenance agency/entity as approved by the City of Banning.	Assign maintenance responsibilities for open space areas	Prior to tract map recordation	City of Banning

O. UTILITIES AND SERVICES SYSTEM

•	*Energy*			
OE-1	Development plans will be provided to the Southern California Gas Company and the	Provide development	Prior to the issuance of	City of Banning, Southern California

EXHIBIT "A"

169

	Southern California Edison Company as they become available in order to facilitate engineering, design and construction of improvements necessary to provide natural gas and electrical services to the proposed project.	plans to utility providers	building permits	Gas Company and the Southern California Edison Company
OE-2	The proposed project will be required to extend a natural gas main and 12 kilovolt electricity feeder line from existing lines on Wilson Street and a second 12 kilovolt electricity feeder line from the intersection of Wyte Way and Gilman Street. The project will also participate in the pro-rata share funding of a new electrical substation in the northwest area of the City.	Extend natural gas mains and electricity feeder lines	Prior to the issuance of building permits	City of Banning
OE-3	The project applicant will comply with guidelines provided by the Southern California Gas Company and the Southern California Edison Company in regard to easement restriction, construction guidelines, protection of line easements and potential amendments to rights-of-way in the areas of any existing easements.	Comply with utility provider guidelines	Prior to tract map recordation	City of Banning, Southern California Gas Company and the Southern California Edison Company
OE-4	Building energy conservation will be largely achieved by compliance with Title 20 and 24 of the Energy Conservation Code. Title 24, California Administrative Code Section 2-5307(b) is the California Energy Conservation Standard for New Buildings which prohibits the installation of fixtures unless the manufacturer has certified to the CEC compliance with the flow rate standards. Title 24, California Administrative Code Section 2-5452(i) and (j) address pipe insulation requirements which can reduce the amount of water used before hot water reaches equipment or fixtures. Title 20, California Administrative Code Sections 1604(f) and 1601(b) are Appliance Efficiency Standards.	Comply with Title 20 and 24 building energy conservation requirements	Prior to the issuance of building permits	City of Banning
OE-5	In order to conserve energy devoted to space heating and air conditioning, active and passive solar techniques will be encouraged whenever possible within the project. Active solar systems include the use of solar space and hot water heating for buildings, swimming pools, etc. Passive systems involve orienting buildings properly, planting trees to take advantage of the sun, providing adequate roof overhangs, making sure that walls are	Utilize active and passive solar heating/cooling techniques	Prior to the issuance of building permits	City of Banning

170

EXHIBIT " A "

properly insulated, and installing simple heat storage systems.			
OE-6 All existing and new utility services shall be placed underground as part of development of the area in which these utility lines are located.	Place all utility services underground	Prior to the issuance of building permits	City of Banning
▪ ***Communications Systems***			
OC-1 Development plans will be provided to applicable telecommunications companies as they become available in order to facilitate engineering, design and construction of improvements necessary to provide communications systems to the proposed project.	Provide development plans to telecommunica-tions companies	Prior to the issuance of building permits	City of Banning
OC-2 The project applicant will comply with guidelines provided by applicable telecommunications companies in relation to easement restrictions, construction guidelines, protection of line easements and potential amendments to rights-of-way in the areas of any existing easements.	Comply with telecommunica-tion company guidelines	Prior to the issuance of building permits	City of Banning
▪ ***Water Supply***			
OW-1 All potable water and reclaimed water and other elements of the infrastructure system will be designed pursuant to City of Banning requirements.	Design water system pursuant to City requirements	Prior to the issuance of building permits	City of Banning
OW-2 The developer shall submit estimates of individual planning area irrigation water demand and landscape/irrigation conceptual plans to the City for review. At the time of the City's review, a determination shall be made regarding requirements for reclaimed water use and system improvements for the subject parcel or planning area.	Submit water demand estimates and conceptual landscape/ irrigation plans	Prior to the issuance of building permits	City of Banning
OW-3 In accordance with the Uniform Plumbing Code, ultra low-flow toilets (1.6 gallons per flush) shall be installed within the proposed project. Low-flow shower heads (2.0 gallons per minute) shall also be utilized.	Provide low-flow toilet and showerheads	Prior to the issuance of building permits	City of Banning
OW-4 The proposed project shall, where possible, utilize efficient irrigation systems which minimize surface runoff and evaporation and maximize the water which will reach plant roots.	Utilize efficient irrigation systems	Prior to the issuance of building permits	City of Banning

171

EXHIBIT " A "

OW-5 Once available, reclaimed water shall be utilized to irrigate the proposed golf course, fuel modification areas, roadway median and on-site parks. A separate system of pipelines to distribute reclaimed water throughout the project site will be installed within the proposed project.	Utilize reclaimed water to irrigate golf course	Prior to tract map recordation	City of Banning
OW-6 The proposed project shall contribute its pro-rata share for the costs of any new off-site wells, pump stations, transmission lines, reservoir(s) and water mains necessary to meet the additional water demands of the proposed project.	Contribute to the costs of new off-site wells and other transmission facilities	Prior to the issuance of building permits	City of Banning
OW-7 All landscape plans shall reflect the following water conservation methods: landscape with low water consuming plants; group plants with similar irrigation requirements to reduce over-irrigation; use of mulch in order to improve the water holding capacity of the soil by reducing evaporation and soil compaction and install efficient irrigation systems that minimize runoff and evaporation and maximize the amount of water that will reach the plant roots. Drip irrigation, soil moisture sensor and automatic irrigation systems also represent methods of increasing irrigation efficiency.	Utilize water conservation methods	Prior to the issuance of building permits	City of Banning
OW-8 The proposed golf course shall incorporate available water conservation measures into its final design. These measures may include, but are not limited to, the utilization of grasses with lower irrigation demands, metering of irrigation systems, integration of open space areas into the golf course design and the use of drought tolerant, low irrigation plant species throughout areas bordering the golf course. Other water conservation measures to be incorporated throughout the golf course and adjacent areas include the use of mulch, drip irrigation, moisture sensors and automatic irrigation systems.	Incorporate water conservation measures into final golf course design	Prior to tract map recordation	City of Banning
OW-9 The proposed project shall secure a Water Assessment from the San Gorgonio Pass Water Agency pursuant to recently-enacted State legislation (SB 610 and SB 221). This assessment will provide required assurances that a sufficient (20 year) supply of water will be available to serve	Secure Water Assessment	Prior to Specific Plan approval	City of Banning and the San Gorgonio Pass Water Agency

172

EXHIBIT " A "

the proposed development.			
▪ ***Wastewater Treatment***			
OS-1 All wastewater transmission and treatment facilities and other elements of the infrastructure system will be designed pursuant to City of Banning, the County Health Department the State Health Department and the Regional Water Quality Control Board requirements.	Adhere to City, County and State requirements for wastewater transmission and treatment	Prior to tract map recordation	City of Banning
OS-2 The proposed project shall contribute its pro-rata share for the costs of off-site wastewater treatment and reclaimed water production facilities or wastewater transmission and reclaimed water distribution lines necessary to treat project-generated wastewater and provide reclaimed water to the project site.	Contribution to the provision of off-site wastewater treatment and reclaimed water facilities	Prior to the issuance of building permits	City of Banning
OS-3 The proposed on-site wastewater treatment facility shall include a fully-enclosed vacuum drying bed in order to minimize impacts (visual, odors) to adjacent areas.	Provide fully-enclosed vacuum drying beds	Prior to tract map recordation	City of Banning

173

EXHIBIT "A"

FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NUMBER 2001061131 FOR THE BANNING BENCH SPECIFIC PLAN

The City of Banning (the "City") hereby certifies the Banning Bench Specific Plan Final Environmental Impact Report, State Clearinghouse Number 2001061131, which consists of the Draft EIR, the Responses to Comments on the Draft EIR, the Mitigation Monitoring/Reporting Program, these Findings of Fact, the Staff Report and any associated attachments (collectively referred to as the "Final EIR"), and finds that it has been completed in compliance with the California Environmental Quality Act (Public Resource Code Section 21000, et seq.) ("CEQA") and that the City of Banning has received, reviewed and considered the information contained in the Final EIR, all hearings, and submissions of testimony from officials and Departments of the City, the applicant, the public and other municipalities and agencies.

Having received, reviewed and considered the foregoing information, as well as any and all information in the record, the City of Banning hereby makes these Findings of Fact pursuant to, and in accordance with, Section 21081 of the Public Resource Code as follows:

BACKGROUND

The 600 acre Banning Bench property is located east of Sunset Avenue and north of Wilson Street within the City of Banning. The site is shown within T2S, R1E, Sections 5 and 6 of the USGS Beaumont quadrangle. The property can be accessed from Wilson Street on the south or Sunset Avenue on the west. Interstate 10 is located approximately one-half mile to the south. The 600 acre Banning Bench site is currently vacant and is characterized by rolling hill terrain.

The proposed Banning Bench Specific Plan will contain a master-planned community, composed of residential, commercial, recreational and open space land uses. The proposed project involves a total of 944 dwelling units, ten acres of office/commercial use, a 6.2 acre quasi-public use area to possibly contain a church, post office, police/fire station, a fifteen acre public use area for a school or park, an 18 hole golf course with a driving range and clubhouse, an eight acre community park, a 1.7 acre project sales center, eight mini-parks (totaling 7.5 acres) and 103 acres of open space. The community will be designed around an 18 hole championship golf course which will be surrounded by residential neighborhoods. Residential densities will range from single family residences with a gross density of 4.75 dwelling units per acre (774 single family residential lots on a total of 163.0 acres) to attached cluster homes with a gross density of 7.40 dwelling units per acre (170 units on 23.0 acres). These proposed residential product types will be designed to meet the market needs and public demand of the Banning area. When fully developed, a maximum of 944 dwelling units will be built within the Banning Bench Specific Plan. Non-residential uses including the proposed

EXHIBIT "A"

174

golf course/driving range/clubhouse, public use area, greenbelts, a community park, mini-parks, open space areas and major roads will directly support the residential neighborhoods and provide the amenities and essential public facilities needed to achieve a balanced land use plan. The proposed ten acre Village Office/Commercial Center and the 6.2 acre Quasi-Public Use Area (to possibly contain a church, post office, police/fire station, etc) will be designed to serve the needs of project residents and residents of the surrounding area. The proposed fifteen acre Public Use Area may contain a school or become park land to be dedicated to the City of Banning.

Access to the Banning Bench site will be provided by Sunset Avenue as it extends north of Wilson Street within the City of Banning. Sunset Avenue will be improved to a four lane (two travel lanes per direction) roadway for approximately 7,500 feet (1.7 miles) to the north. The remaining 2,000 feet of Sunset Avenue leading to the northern project boundary will transition back to its current two lane configuration.

Primary access into the proposed project will be provided by the main project entry located approximately one mile north of Wilson Street. A four lane divided Entrance Parkway will lead east from Sunset Avenue approximately 3,200 feet (0.6 miles) and past the main project entry gate. The residential portions of the proposed project will be served by a hierarchy of on-site collector and local roadways. Secondary, emergency-only access roadways will be provided at no less than five locations.

A total of 103.0 acres of open space areas along the northern, southern, and eastern project boundaries and along the south-facing slopes overlooking Wilson Street will provide an open space buffer between developed portions of the Banning Bench site and adjacent areas. These open space areas provide a nearly continuous visual buffer along a large portion of the site perimeter.

The parks component of the Banning Bench Specific Plan involves three types of proposed park facilities, an eight acre community park, eight residential mini-parks and the Public Use Area. The community park and mini-parks are, in combination, intended to satisfy the public park obligation of the Banning Bench Specific Plan.

The Banning Bench Specific Plan is expected to be developed within three phases over an approximate 5 to 10 year period. The actual rate of project development will be determined by local and regional housing demand and according to the timing of extension of roadways, public utilities and infrastructure.

The proposed project involves the following approvals by the City of Banning: adoption of a General Plan Amendment to change the City's General Plan Land Use Element designation of the project site from "Very Low Density Residential", "Rural Residential" and "Residential Agriculture" to "Specific Plan"; approval of a Change of Zone from the current zoning of R-A and R-A-1 to a Specific Plan Overlay Development Zone (SPOD Zone); adoption of the Banning Bench Specific Plan; approval of an amended Development Agreement; adoption of a Reimbursement Agreement for a portion of the costs of widening Sunset Avenue north of Wilson Street and certification

EXHIBIT " A " 175

of the Final EIR. The proposed project may also require the following permits and approvals by other involved agencies including: Streambed Alteration Permits pursuant to Public Resources Code Sections 1601-1603 from the California Department of Fish and Game; Section 404 Permits under the Clean Water Act from the United States Army Corps of Engineers; a Section 7 Consultation or Section 10(a) Permit from the United States Fish and Wildlife Service; Water Quality Certification; Storm Water Discharge Permits and Wastewater Discharge Permits from the Regional Water Quality Control Board and a Water Purchase Agreement between the San Gorgonio Pass Water Agency, the City of Banning and the applicant.

This Final Environmental Impact Report (EIR) has been prepared in accordance with the California Environmental Quality Act of 1970 (CEQA) as amended (Public Resources Code Section 21000, et. seq.). This Final EIR is intended to address all of the impacts, mitigation measures, project alternatives, etc. associated with the current project. An Initial Study for the project was prepared by the City of Banning and a Notice of Preparation (NOP) for an EIR was distributed to local Responsible and Trustee Agencies, the State Clearinghouse and other interested parties on two occasions, between June 29, 2001 and July 30, 2001 and between November 19, 2003 and December 26, 2003. Various agencies and individuals provided written comments within the State-mandated 30-day public review period for the NOP. During the months of July, 2003 through November, 2003, the City of Banning internally reviewed administrative draft copies of the Draft EIR.

Upon completion of this review, copies or notification of availability of the Draft EIR were forwarded to all Responsible/Trustee Agencies and interested groups and individuals. As was also the case for the Notice of Preparation, the Draft EIR was forwarded to the State Clearinghouse for distribution to and review by various involved State agencies. The State-mandated 45-day public review of the Draft EIR began on August 19, 2004 and ended on October 4, 2004. A Response to Comments package was prepared which presented all written comments received in response to the public review of the Draft Environmental Impact Report.

The contents of the Draft EIR, the Responses to Comments on the Draft EIR, the Mitigation Monitoring/Reporting Program, these Findings of Fact, the Staff Report and any other related attachments or additional materials comprise the Final Environmental Impact Report for the proposed Banning Bench Specific Plan.

This Final EIR has been prepared for the City of Banning in accordance with the California Environmental Quality Act (CEQA), as amended, and City Guidelines for the Implementation of CEQA. Pursuant to California Public Resources Code 21082.1, the City of Banning has independently reviewed and analyzed the information contained in the Final Environmental Impact Report. The conclusions and discussions contained herein reflect the independent judgment of the City of Banning as to those issues at the time of publication.

176

EXHIBIT " A "

THE ENVIRONMENTAL IMPACT REPORT

An Initial Study for the Banning Bench Specific Plan was prepared by the City of Banning in November, 2003, which identified potential environmental impacts attributable to the proposed project. These potential impact areas include: land use and planning; population and housing; geology and soils; hydrology and water quality; air quality; noise; biological resources; transportation/traffic; aesthetics; agricultural resources; cultural resources; hazards and hazardous materials; public services; recreation and utilities and service systems. In addition, the State CEQA Guidelines require analysis of unavoidable adverse impacts, project alternatives, growth inducing impacts, cumulative impacts, and provision of a Mitigation Monitoring/Reporting Program. As a result of the Initial Study, it was determined that the proposed project may have a significant effect on the environment and an Environmental Impact Report (EIR) was required.

The Final EIR analyzed both project and cumulative effects of potential environmental impacts noted above. The Final EIR developed and identified a variety of mitigation measures to minimize, reduce, avoid or compensate for the potential adverse effects of the proposed project.

The Final EIR discussed a number of potential alternatives to the proposed project, including the: 1) the No Project Alternative; 2) the Non-Commercial Alternative; 3) the Non-Recreation Alternative; 4) the Reduced Project Alternative; 5) the Two-Lane Sunset Avenue Alternative; 6) Alternate Land Uses and 7) Alternative Project Sites.

Public hearings have been held on the project proposal and its associated environmental impacts by the City of Banning Planning Commission and City Council prior to the certification of the Final EIR.

The City of Banning makes the following findings in adopting a Resolution certifying the Final EIR. Section 1 of these Findings addresses those potential environmental effects of the proposed project which have been mitigated to a level of insignificance. Section 2 of these Findings addresses the potential environmental effects of the proposed project which were determined not to be significant. Section 3 of these Findings contains the Statement of Overriding Considerations. Section 4 of these Findings addresses the significant unavoidable environmental effects of the proposed project which cannot be feasibly mitigated to a level of insignificance. Section 5 of these Findings addresses the growth-inducing impacts of the proposed project. Section 6 of these Findings addresses the alternatives to the proposed project discussed in the Final EIR. Section 7 of these Findings addresses the Mitigation Monitoring/Reporting Program for the proposed project. Section 8 of these Findings contains the required Section 15091 and 15092 Findings. The findings set forth in each section are supported by substantial evidence in the administrative record of the proposed project. Exhibit A to this Findings package contains the Mitigation Monitoring/Reporting Program for the proposed project.

177

EXHIBIT " A "

SECTION 1

POTENTIAL ENVIRONMENTAL IMPACTS WHICH HAVE BEEN MITIGATED TO A LEVEL OF INSIGNIFICANCE

All Final EIR mitigation measures (as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings) have been incorporated into the Conditions of Approval for the Banning Bench Specific Plan.

The City of Banning has determined that these mitigation measures and conditions of approval will result in a substantial reduction of the following impacts which have been mitigated to a level of insignificance. The mitigation measures referred to below are contained within the Mitigation Monitoring Program which is attached as Exhibit A to these Findings.

A. Geology and Soils

1. Impacts – The subject property is suitable for development from a geotechnical viewpoint; adverse geological features were not encountered on the project site and are not anticipated during project development.

   The proposed project will result in the permanent alteration of approximately 416.9 acres (or 69.4%) of the 600-acre project site. Areas to be graded are relatively flat with slopes generally less than five percent. Approximately 500,000 cubic yards of rough earthwork will be required and is anticipated to balance on-site, with no import or export of fill required. Project development must consider soil expansion potential and the suitability of soils as fill material. Due to its proximity to the San Gorgonio Pass Fault Zone, the project site will likely be exposed to groundshaking due to a seismic event from this fault or other faults in the area. See Final EIR pages V-18 through V-20.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures C-1 through C-3 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – According to GeoSoils, Inc., the subject property appears suitable for the development proposed by the Banning Bench Specific Plan, from a geotechnical point of view. Adverse geologic features that would preclude project feasibility were not encountered during site reconnaissance and are not anticipated to be encountered during project development.

178

EXHIBIT " A "

Development of the Banning Bench Specific Plan will result in the permanent alteration of the existing landform to accommodate the proposed uses. Approximately 416.9 acres (or 69.4%) of the 600-acre project site will be graded. Areas to be graded are relatively flat with slopes generally less than five percent. Approximately 500,000 cubic yards of rough earthwork will be required and is anticipated to balance on-site, with no import or export of fill required

The San Gorgonio Pass fault zone, located off-site at the southern edge of the property has been mapped as an Earthquake Fault Zone established by the State of California in accordance with the Alquist-Priolo Earthquake Fault Zoning Act. The portion of the project site affected by this zoning will be retained in open space use by the Banning Bench Specific Plan, with no habitable structures proposed.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant geology and soils impacts associated with the proposed project will be reduced to a level of insignificance.

B. Hydrology and Water Quality

1. Impacts – The proposed project could during project construction result in short-term downstream water quality impacts related to erosion and sedimentation due to the creation of exposed soils during grading.

   Project development will result in the alteration of on-site drainage patterns due to changes in the landform. Site development and the addition of road culverts will represent a minor alteration to existing on-site drainage patterns.

   The proposed project, due to the creation of impervious surfaces, will create an increase in surface runoff which will be accommodated by the on-site drainage system. The composition of surface runoff will also be altered due to site grading, impervious surfaces and landscape irrigation. See Final EIR pages V-21 through V-24.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures D-1 through D-9 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen certain significant environmental effects as identified in the Final EIR.

EXHIBIT "A" 179

4. Supportive Evidence – Development of the proposed Banning Bench Specific Plan will result in short-term and long-term hydrologic impacts. The construction phase of the proposed project could, if not properly mitigated, potentially create short-term downstream impacts related to erosion and sedimentation due to the creation of exposed soils during project grading.

   Project development will result in landform alteration which will alter on-site drainage patterns. The existing natural drainage channels will convey the developed on-site runoff. Site development and the addition of new road culverts will result in minor alteration of existing drainage patterns and will require some landform alteration.

   Development of the proposed project will result in an increase in surface runoff due to the creation of impervious surfaces such as the proposed structures, parking lots, roadways, etc. Increased storm water runoff rates are expected to be accommodated by the on-site drainage system. Development of the proposed project will alter the composition of surface runoff by the grading of the sites surfaces, by the construction of impervious surfaces (streets, roofs, parking lots, etc.) and the irrigation of landscaped areas

   With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, certain potentially significant hydrology and water quality impacts associated with the proposed project will be reduced to a level of insignificance.

C. Noise

1. Impacts – Project construction will increase ambient noise levels over the short-term due to the use of construction equipment.

   The proposed project will result in long-term noise impacts onto on- and off-site roadways due to the generation of additional traffic. Noise from proposed on-site uses are not expected to impact areas outside the project boundaries. See Final EIR pages V-48 through V-59.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures F-1 through F-6 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

EXHIBIT " A "

180

4. Supportive Evidence – Construction noise represents a short-term impact on ambient noise levels. Noise generated by construction equipment, including trucks, graders, bulldozers, concrete mixers and portable generators can reach high levels. The peak noise level for most of the equipment that will be used during the construction is 70 to 95 dBA at a distance of 50 feet. At 150 feet, the peak construction noise levels range from 61 to 86 dBA. At 1,000 feet, the peak noise levels range from 44 to 69 dBA. Note that these noise levels are based upon worst-case conditions. Typically noise levels near the site boundaries will be less.

   Long-term noise impacts from the Banning Bench Specific Plan on land uses in the vicinity of the project will result from traffic noise increases along roadways in the project vicinity. No noise impacts from on-site project activities will occur due to the distance of the proposed residential, commercial and golf course uses (more than 600') from existing residences.

   With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant noise impacts associated with the proposed project will be reduced to a level of insignificance.

D. Biological Resources

1. Impacts – Project construction will result in the loss of plant and wildlife resources due to the removal or alteration of physical habitats found on the project site. The proposed project will result in the direct removal of approximately 416.9 acres of native and non-native vegetation as well as the direct loss of wildlife habitat and individual common wildlife species. See Final EIR pages V-68 through V-71.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures G-1 through G-6 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

   b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.

4. Supportive Evidence - Impacts to vegetation and wildlife are expected to occur as a result of the removal or alteration of physical habitats through earthwork and other disturbances related to the proposed project. Plant and wildlife resources

will be lost as a result of construction activities and other forms of harassment after project development. Construction activities will result in the removal of physical habitats through cut, fill and other grading activities necessary for roads, building pads, utilities and fuel modification. The proposed development of the Banning Bench Specific Plan site will result in the direct removal of approximately 416.9 acres of both native and non-native vegetation. In total, the project would result in the removal of approximately 1.3 acres of mixed chaparral, 2.5 acres of riparian woodland, 13.7 acres of Riversidean sage scrub and 399.4 acres of annual grassland from the 600 acre site. The remainder of the site, including approximately 2.0 acres of riparian woodland would not be graded or disturbed during project construction.

Development of the proposed project will result in the loss of wildlife habitat and the potential loss of individual common wildlife species. Impacts are associated with ground disturbances, vegetation removal, noise and increased human presence (during development of the site as well as subsequent human use). The proposed project will not result in direct or indirect impacts to any sensitive species listed as threatened or endangered by the United States Fish and Wildlife Service or the California Department of Fish and Game.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant biological resources impacts associated with the proposed project will be reduced to a level of insignificance.

E. Transportation and Traffic

1. Impacts – The proposed project will generate additional daily and peak hour traffic which will utilize off-site roadways currently serving the subject property. Project traffic when combined with existing traffic as well as traffic from other development planned, proposed or under construction in the area results in or contributes to the need for signals at four off-site locations as well as at the project entrance. See Final EIR pages V-80 through V-103.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures H-1 through H-8 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

182

EXHIBIT " A "

4. Supportive Evidence – The proposed project is estimated to generate a total of approximately 13,465 daily vehicle trips with 926 vehicles generated during the morning peak hour and 1,342 vehicles generated during the evening peak hour.

   In order to assess future traffic conditions, project traffic is combined with existing traffic as well as other development planned, proposed or under construction in the area. The only major development planned in the project area is the Black Bench Specific Plan. Six cumulative traffic scenarios were developed involving various land use and traffic circulation assumptions for cumulative traffic generated by both the Banning Bench and Black Bench Specific Plans. For cumulative without project traffic conditions, traffic signals are projected to be warranted at four off-site intersections: Sunset Avenue at Wilson Street, Sunset Avenue at Nicolet Street and Sunset Avenue at both the east and westbound ramps at Interstate 10. For cumulative with project traffic conditions, an additional traffic signal is projected to be warranted at the intersection of Sunset Avenue at the main project entrance.

   With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant transportation and traffic impacts associated with the proposed project will be reduced to a level of insignificance.

F. Aesthetics

1. Impacts – Construction and operation of the proposed project will irreversibly alter the nature and appearance of a major portion of the 600 acre project site. Project construction will result in short-term adverse visual impacts.

   The proposed project will contain developed uses that will be visible from off-site locations but will be set back from the property boundary with either open space, the golf course or intervening topography serving as a visual buffer. The proposed project will primarily impact views of the site from the north which has vantage points that share a similar elevation with the developed portions of the project site.

   The proposed project will generate night lighting that may be visible from vantage points to the north and from Sunset Avenue. See Final EIR pages V-107 through V-115.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures I-1 through I-4 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – Construction and operation of the proposed Banning Bench Specific Plan will alter the nature and appearance of a major portion of the 600 acre project site. Existing open space areas proposed for structures, roadways, landscaping, etc. will be visually altered as a result of project development. Approximately 185 acres of the site will contain a golf course with an additional 103.0 acres to be retained as open space. Construction of the Banning Bench Specific Plan will result in short-term impacts to views of the project site during construction activities. Temporary construction impacts will result from grading activities and construction of proposed structures.

   The proposed project will primarily impact views of the site from the north. These are the only surrounding vantage points that share a similar elevation with the project site. Areas to the west, south and east are generally at significantly lower elevations than the project site.

   Most of the proposed developed uses within the Banning Bench Specific Plan are set back from the property boundary with either proposed open space areas or the golf course serving as a visual buffer between developed uses and vantage points off-site.

   The proposed project will generate night lighting emanating from proposed structures, parking lots and roadways. As such, night lighting will be generated on the project site. In general, light and glare will be visible from more proximate locations, areas to the north of the project site and for travelers on Sunset Avenue. Areas to the west, south and east will be shielded from a majority of light and glare due to the decrease in elevation for these surrounding areas.

   With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant aesthetics impacts associated with the proposed project will be reduced to a level of insignificance.

G. Agricultural Resources

1. Impacts – The proposed project will result in the permanent loss of 600 acres of land that would otherwise be potentially available for agricultural use. However, the project site has not been subject to agricultural production for the past fifteen years with only occasional grazing currently occurring on the site.

   The proposed project will not conflict with any existing agricultural uses but may potentially hasten the conversion of adjacent agricultural lands to urban uses. See Final EIR pages V-118 through V-120.

EXHIBIT " A "

184

2. Mitigations – Refer to Conditions of Approval and Mitigation Measure J-1 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – Development of the Banning Bench Specific Plan will result in the permanent reduction in the amount of land potentially available for grazing or other agricultural activities. The proposed project will convert approximately 472.7 acres to developed uses with 103.3 acres remaining as open space. These remaining open space areas contain existing watercourses and steep slopes which would not offer opportunities for significant agricultural activity. Therefore, project development will preclude the use of approximately 600 acres of land possibly available for agricultural use. However, the project site has not been subject to agricultural production (i.e. dryland farming) for the past fifteen years with occasional grazing as the only agricultural activity that has occurred on-site in recent years. As such, no direct reduction in ongoing agricultural use will occur as a result of project development

   Given the limited nature of adjacent agricultural operations coupled with the provision of adequate barriers to unauthorized entry to adjacent properties, no significant conflicts with existing agricultural (grazing) uses are anticipated.

   Development of the Banning Bench Specific Plan could potentially hasten the conversion of adjacent areas to urban uses by creating economic pressures and increasing land values on adjacent parcels thereby serving as a growth-inducement to these adjacent areas.

   With the incorporation of the mitigation measure as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant agricultural resources impacts associated with the proposed project will be reduced to a level of insignificance.

H. Cultural Resources

1. Impacts – While no cultural resources have been found on the project site, the proposed project may result in the unforeseen discovery of unknown cultural resources unearthed during project grading and construction. See Final EIR pages V-122 through V-123.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measure K-1 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – Although no cultural resources have been recorded for the subject property during either of the surveys of 1979 nor during the 2001 field reconnaissance, there remains the potential that currently unknown cultural resources may be unearthed during project grading or construction.

   A very limited portion of the Banning Wagon Road or Bradshaw Trail may have been close to, but likely not within the southern boundary of the property. Any potential impacts to such as alignment would not constitute a significant impact to the resource.

   With the incorporation of the mitigation measure as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant cultural resources impacts associated with the proposed project will be reduced to a level of insignificance.

I. Hazards and Hazardous Waste

1. Impacts – While there is no evidence of hazardous materials on the project site, the subject property may contain abandoned wells or may have been areas where unauthorized dumping may have occurred.

   The proposed project will contain commercial uses which may include small quantity hazardous materials generators including any cleaners, photo and camera stores, paint or hardware stores, etc. See Final EIR page V-125.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures L-1 through L-3 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

EXHIBIT " A "

186

b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.

4. Supportive Evidence – Although there is no evidence of hazardous materials on the Banning Bench site, two potential sources of hazards or hazardous waste may occur on the site. Prior agricultural activities may have utilized wells that are no longer used or easily observed. In addition, unauthorized dumping may have occurred. During project construction, well sites will be capped and unauthorized fills will be remediated.

   The Banning Bench Specific Plan includes a ten acre Village Office/Commercial Center and a 1.7 acre project sales center which will contain 90,000 square feet of commercial space. The permitted commercial land uses could include small quantity hazardous materials generators. There will be no direct exposure of hazardous materials to the public.

   With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant hazardous and hazardous waste impacts associated with the proposed project will be reduced to a level of insignificance.

J. Police Protection

1. Impacts – The proposed project will incrementally increase the demand for police protection due to the increase in population and the proposed on-site uses. As such, the proposed project may contribute to the need for additional equipment and manpower for the Banning Police Department. See Final EIR pages V-127 through V-128.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures MP-1 and MP-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – With any increase in population, it can be expected that criminal activities such as burglary, theft, domestic violence and vandalism will occur. Proposed commercial uses are expected to incrementally increase the incidence of burglary, assault, disorderly conduct and auto theft. None of these crimes are considered to be unusual or unique to Banning. According to the Police Department, other development of a similar nature elsewhere in the City

(Sun Lakes) typically experiences a very low crime rate. The proposed project will represent an incremental addition to the regional demand upon the resources, both equipment and manpower, of the Banning Police Department.

The 6.2 acre Quasi-Public Use Area within Planning Area 11 adjacent to Sunset Avenue is proposed to contain a police/fire station site.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant police protection impacts associated with the proposed project will be reduced to a level of insignificance.

K. Fire Protection

1. Impacts – The proposed project will result in the increased demand for fire protection services which could contribute to the need for additional fire fighters, equipment or improvements to existing facilities. The proposed project will require the provision of secondary/emergency-only access routes in order to allow emergency vehicle entry or resident exit in the event of an emergency or unforeseen blockage of the main project entry. Potential fire impacts may result due to existing vegetation at the edge of project development. See Final EIR pages V-129 through V-131.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures MF-1 through MF-7 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – Development of the proposed project will result in the increased demand for fire protection and emergency response services. This increased demand will, in turn, incrementally contribute to the need for additional fire fighters, additional equipment and/or improvements to existing facilities.

   Secondary, emergency-only access roadways will be provided at no less than five locations. These emergency access roads will consist of 20-foot, two-lane paved roadways with an emergency gate which will be activated by the City Fire Department and will allow emergency vehicle entry or resident exit in the event of an unforeseen blockage of the primary ingress/egress roadways.

   Potential fire protection impacts may also occur due to fire hazards caused by existing vegetation in areas adjacent to the edge of proposed development.

188

EXHIBIT "A"

Adjacent to or within a short distance of the proposed development edge are sage scrub, grassland and chaparral habitats.

The 6.2 acre Quasi-Public Use Area within Planning Area 11 adjacent to Sunset Avenue is proposed to contain a police/fire station site

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant fire protection impacts associated with the proposed project will be reduced to a level of insignificance.

L. Schools

1. Impacts – The proposed project is estimated to generate a total of 519 students based upon student generation factors provided by the Banning Unified School District. This "worst-case" estimate may be reduced due to the recreation-oriented nature of the proposed project. See Final EIR pages V-134 through V-136.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures MS-1 and MS-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

   b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.

4. Supportive Evidence – The proposed Banning Bench Specific Plan is estimated to generate a total of 519 students based upon factors provided by the Banning Unified School District. It should be acknowledged that these student generation totals are considered to be maximum probable or "worst-case" estimates. Other recreation (golf course) oriented development in the area generates significantly fewer students than the typical student generation rates.

   The fifteen acre Public Use Area within Planning Area 14 adjacent to Sunset Avenue along the northern project boundary will be offered for dedication in lieu of fees as a school site to the Banning Unified School District. This area is considered sufficient for provision of an elementary school.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant schools impacts associated with the proposed project will be reduced to a level of insignificance.

M. Solid Waste

1. Impacts – The proposed project will generate increased solid waste which will increase service demands on local haulers and incrementally decreasing the lifespan of the local landfill. Project construction will also result in the short-term generation of solid waste. See Final EIR page V-137 through V-140.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures MS-1 and MS-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – The proposed Banning Bench Specific Plan will generate increased amounts of solid waste, thereby increasing service demands upon local solid waste haulers and incrementally decreasing the lifespan of the local landfill. The proposed project is estimated to generate a total of 7.955 tons of solid waste per day. Waste Management Inc. has indicated that these increased demands are within their service capabilities.

   The construction phase of the Banning Bench Specific Plan will also generate solid waste. Construction waste generally consists of lumber, roofing material, concrete, debris, etc. and is calculated to generate a total of 21,280 tons of construction waste.

   With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant solid waste impacts associated with the proposed project will be reduced to a level of insignificance.

N. Recreation

1. Impacts – The proposed project will result in the additional demand for parks and recreation facilities in the project area. The proposed project will provide a variety of recreation facilities within the site boundaries to serve project residents and the public. See Final EIR pages V-142 through V-144.

190

EXHIBIT " A "

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures N-1 through N-7 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.

4. Supportive Evidence – Development of the Banning Bench Specific Plan will create an additional demand for parks and recreation facilities in the project area. In order to meet this demand, the proposed Specific Plan includes a number and variety of recreational facilities including parks, a golf course and areas proposed for open space use. With provision of these on-site facilities, residents of the Banning Bench Specific Plan are not expected to utilize existing public parks outside of the project boundaries.

The proposed community park and eight mini-parks are intended to satisfy the public park obligation of the Banning Bench Specific Plan.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant recreation impacts associated with the proposed project will be reduced to a level of insignificance.

O. Energy

1. Impacts – The proposed project will result in an increased demand upon the infrastructure and service capabilities of local utility providers due to the increased consumption of natural gas, electricity and fossil fuels. See Final EIR pages V-146 through V-149.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures OE-1 through OE-6 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

191

EXHIBIT "A"

b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.

4. Supportive Evidence – The proposed Banning Bench Specific Plan will generate an incrementally increased demand upon the infrastructure and service requirements of the Southern California Gas Company and the Southern California Edison Company. The proposed project will increase the long-term consumption of energy for space and water heating, cooking, refrigeration and air conditioning, and use of appliances and motor vehicle operations.

   Project development is estimated to consume an average of 6,456,560 cubic feet of natural gas per month. The Southern California Gas Company anticipates that sufficient natural gas supplies will be available to meet natural gas service need of the proposed project.

   Project development is estimated to generate an electrical demand of 8,055,464 kilowatt hours per year. These estimated demands for electrical generating capacity fall within the anticipated service parameters of the Southern California Edison Company.

   The proposed project will result in the consumption of an estimated 6,096 gallons of gasoline on a daily basis.

   With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant energy impacts associated with the proposed project will be reduced to a level of insignificance.

P. Communications Systems

1. Impacts – The proposed project will generate an increase demand upon the infrastructure and service capabilities of the local communications systems including the need for the extension of underground cables north of Wilson Avenue to serve the project site. See Final EIR page V-151.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures OC-1 and OC-2 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

192

EXHIBIT " A "

4. Supportive Evidence – Development of the proposed project will result in an incrementally increased demand upon the infrastructure and service requirements of Verizon and Time Warner Cable. This additional demand falls within the service parameters of these telecommunications companies. The proposed project will require extension of lines onto the project site from existing underground cables in Wilson Street.

   With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant communications systems impacts associated with the proposed project will be reduced to a level of insignificance.

Q. **Water Supply**

1. Impacts – The proposed project will result in both the short- and long-term demand for additional water supplies. Project construction will require the use of water for dust control and other related activities.

   The proposed project will result in the long-term demand for a total of approximately 3.45 acre-feet per day of 1,259 acre-feet per year, a portion of which (1.97 acre-feet per day of 57% of this total) is assigned to outdoor uses to be ultimately served by the proposed on-site reclaimed water system. The project will be served by a system of separate potable and reclaimed water pipelines. See Final EIR pages V-154 through V-157.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures OW-1 through OW-9 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

   b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.

4. Supportive Evidence –The proposed Banning Bench Specific Plan will result in the increased daily demand for water supplies. Project-related construction activities will require the use of water for grading (dust control) and other construction-related activities.

   Development of the proposed project will result in the long-term demand for additional water supplies. Projected water demand for the Banning Bench

193

EXHIBIT " A "

Specific Plan are broken into indoor and outdoor demand. The proposed project will require a total of 1,124,559 gallons (or 3.45 acre-feet) per day or approximately 1,259 acre-feet per year. Of this total, approximately 641,359 gallons or 1.97 acre-feet per day or 57.0% of this total is assigned to outdoor uses which are ultimately served by the proposed on-site reclaimed water system.

Potable water service to the developed portions of the Banning Bench Specific Plan will be provided by a system of 8 inch, 10 inch and 12 inch pipelines. A separate system of pipelines to provide reclaimed water to the golf course and large landscaped areas will also be installed.

The proposed project will purchase water through the City of Banning with the purpose of compensating for project water demand.

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant water supply impacts associated with the proposed project will be reduced to a level of insignificance.

R. Wastewater Treatment

1. Impacts – The proposed project will result in the increased demand for wastewater treatment due to the estimated generation of 302,260 gallons of wastewater per day. This wastewater will be transported by an on-site system of pipelines leading to the proposed on-site wastewater treatment facility. See Final EIR pages V-160 through V-162.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures OS-1 through OS-3 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.

4. Supportive Evidence – Development of the proposed project will result in the increased demand for wastewater treatment service. The proposed Banning Bench Specific Plan will result in the generation of 302,260 gallons of wastewater per day.

   Sewer service to the proposed project will be provided through a system of 8-inch, 10-inch and 12-inch sewer mains which will be designed within the streets and where appropriate through the golf course.

194

EXHIBIT " A "

A package sewage treatment plant is proposed on the project site with effluent utilized for on-site irrigation needs. This on-site treatment facility is proposed to be built at the southwest corner of the proposed project

With the incorporation of the mitigation measures as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings, the potentially significant wastewater treatment impacts associated with the proposed project will be reduced to a level of insignificance.

195

EXHIBIT " A "

SECTION 2

POTENTIAL ENVIRONMENTAL IMPACTS WHICH HAVE BEEN IDENTIFIED AS INSIGNIFICANT

Certain impacts were analyzed in the Final EIR which have been identified as insignificant. In certain cases, mitigation measures (as set forth in the Mitigation Monitoring Program) have been incorporated into the Conditions of Approval for the Banning Bench Specific Plan.

The City of Banning has determined that the following impacts are insignificant.

A. Population and Housing

1. Impacts – The proposed project will generate 944 dwelling units with a resultant population generation of 2,502 new residents. See Final EIR pages V-10 through V-11.

2. Mitigations – No mitigation measures are proposed.

3. Findings – Population and housing impacts were determined not to be significant.

4. Supportive Evidence – Development of the proposed Banning Bench Specific Plan will result in the development of 944 dwelling units with the resultant population generation of 2,502 new residents. This housing and population generation represents a 9.8% increase over current (January, 2003) housing totals.

   The current Land Use Element designations applied to the Banning Bench site allow a total of 850 dwelling units while the current zoning designations applied to the Banning Bench site currently allow a total of 921 dwelling units within the 600 acre subject property. These totals do not represent a significant difference (94 or 23 less dwelling units) from the total number of dwelling units currently proposed by the Banning Bench Specific Plan. As such, the proposed project does not induce a substantial growth beyond current City policies concerning housing development and the resultant population increase.

196

EXHIBIT " A "

SECTION 3

STATEMENT OF OVERRIDING CONSIDERATIONS

The Final EIR has identified and discussed significant effects which will occur as a result of the proposed Banning Bench Specific Plan. With the implementation of the mitigation measures discussed in the Final EIR, these effects can be mitigated to a level of insignificance except for project-related significant, unavoidable adverse impacts in the areas of Land Use and Planning, Air Quality, Noise and Aesthetics as identified in Section 4 of these Findings. Section 15093 (a)(b) of the State CEQA Guidelines state that the City of Banning, as Lead Agency, must "balance, as applicable, the economic, legal, social, technological or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project." If the benefits of a project outweigh its unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." When the Lead Agency approves a project which will result in significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the Lead Agency must state the specific reasons to support its action.

Having reduced the effects of the proposed project by adopting the conditions of approval and a program to monitor mitigation measures for certain project impacts, (as discussed in Sections 1 and 2 of these Findings) and having balanced the benefits of the proposed project against the proposed project's significant unavoidable adverse impacts (as noted in Section 4 of these Findings), the City of Banning hereby determines that the specific economic, legal, social, technological or other benefits of the proposed project outweigh these significant unavoidable adverse impacts based on the following overriding considerations:

1. The proposed project provides a variety of land uses (residential, commercial, institutional, recreational and open space) within an overall land use plan which cannot be accomplished on a parcel-by-parcel basis.

2. The proposed project provides complimentary land uses within a single mixed use project thereby reducing traffic, noise and air quality impacts associated with automobile trips headed for similar destinations at a further distance.

3. The proposed ten acre Village Office/Commercial Center and 1.7 acre project sales center will serve the residents of the site and those residing in adjacent areas.

4. The proposed 6.2 acre Quasi-Public Use Area is anticipated to contain a police/fire station (one acre of the site will be dedicated to the City for this purpose) as well as a post office, church or other quasi-public uses.

5. The proposed fifteen acre Public Use Area will be offered to the Banning Unified School District or utilized for parks or open space.

EXHIBIT " A "

197

6. The proposed project provides a variety of recreational opportunities including an eight acre community park, 7.5 acres devoted to a total of eight mini-parks and 184.4 acres devoted to an 18-hole championship golf course, a 20,000 square foot clubhouse and a 7,500 square foot swim club/tennis center. Although the golf course will be under private ownership and operation, it will be open to the public for a minimum of ten years following its opening of play.

7. The proposed project will provide a total of 103.0 acres of open space areas along the northern, southern and eastern project boundaries as well as throughout the project site. These open space areas will provide an open space buffer between developed portions of the site and adjacent areas.

8. The proposed Village Office/Commercial Center, Quasi-Public Use Area and golf course will generate long-term employment opportunities.

9. The proposed project provides an on-site roadway system which is consistent with the City's Circulation Element in relation to the design and location of on-site roadways and encourages pedestrian mobility and alternative transit modes through the provision of sidewalks and bike lanes to link proposed on-site land uses. Emergency-only access roadways will be provided at no less than five locations as approved by the City Fire Department in order to insure adequate emergency vehicle ingress and resident egress during an emergency situation.

10. The proposed project includes improving Sunset Avenue to a four-lane (two travel lanes per direction) roadway for approximately 1.7 miles north of Wilson Street.

11. Drainage facilities will be constructed to better contain and direct the flow of stormwater runoff through and downstream of the project site. The project drainage plan utilizes on-site golf course lakes to detain stormwater flows which will be directed to improved drainage and discharge facilities thereby reducing flooding hazards both on-site and downstream of the project.

12. The proposed project provides a backbone infrastructure system and public facilities (including water, wastewater and utility systems) in an efficient and timely manner which support the proposed development of the subject property.

13. The proposed project includes an on-site sewage treatment plant with effluent utilized for on-site irrigation needs thereby reducing overall project water demands. This on-site wastewater treatment facility will be initially sized to serve the proposed project with the capacity for expansion to serve other development in the area.

14. The proposed project will generate development fees with certain proposed uses generating incremental sales tax revenue to the City of Banning.

198

EXHIBIT "A"

SECTION 4

SIGNIFICANT UNAVOIDABLE ENVIRONMENTAL IMPACTS WHICH CANNOT BE MITIGATED TO A LEVEL OF INSIGNIFICANCE

The City of Banning has determined that certain environmental impacts cannot be feasibly mitigated to a level of insignificance although the Final EIR contains mitigation measures and conditions of approval to be imposed on the proposed project which will provide a substantial mitigation of these effects. Consequently, in accordance with Section 15093 of the State CEQA Guidelines, a Statement of Overriding Considerations has been prepared (see Section 3 of these Findings) to substantiate the City's decision to accept these significant unavoidable adverse environmental impacts because of the benefits afforded by the proposed project.

A. Land Use and Planning

1. Impacts – The growth-inducing and cumulative land use impacts associated with the proposed project relative to the elimination of potential development constraints, the creation of conversion pressures on adjacent open space lands and the precedent-setting nature of the proposed project on adjacent land uses are considered to be significant. See Final EIR pages V-7 through V-9 and pages VI-21 through VI-22.

2. Mitigations – Refer to Conditions of Approval and Mitigation Measure A-1 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Specific economic, social, legal, technical or other considerations make the alternatives identified in the Final Environmental Impact Report infeasible. However, conditions of approval and proposed mitigation measures will reduce, to the extent feasible, the adverse land use and planning impacts.

4. Supportive Evidence – Development of the proposed Banning Bench Specific Plan will result in the transition of land uses from the existing undeveloped open space that was formerly utilized for grazing to the land uses proposed within the Banning Bench Specific Plan. Development of the Banning Bench site will result in the direct conversion of 497.0 acres of area currently devoted to open space uses and formerly utilized for cattle grazing. The remaining 103.0 acres of the 600 acre project site is proposed to remain in open space use.

   Given the undeveloped nature of the project site and immediate surroundings, the proposed project does not disrupt an established community or overall pattern of development.

199

EXHIBIT " A "

Most of the proposed developed uses within the Banning Bench Specific Plan are set back from the property boundary with either proposed open space areas or the golf course serving as a visual buffer between developed uses and vantage points off-site.

Project development will involve the proposed widening and improvement of Sunset Avenue to a four-lane roadway to a point approximately 1.7 miles north of Wilson Street. This roadway improvement will allow for increased access to areas north of the Banning Bench site which eliminates a potential constraint upon development of areas to the north and west of the project site.

The proposed project will require the adoption of a General Plan amendment to change the City's General Plan Land Use Element designation of the project site from "Very Low Density Residential", "Rural Residential", "Residential Agriculture" to "Specific Plan" and approval of a change of zone from the current zoning of R-A and R-A-1 to a Specific Plan Overlay Development Zone (SPOD Zone).

B. Air Quality

1. Impacts – The short-term construction emissions due to the proposed project will be reduced to an extent with implementation of the proposed mitigation measures, however, the emissions of carbon monoxide, reactive organic gases, nitrogen oxides, particulates and sulfur oxides would still be significant. The long term regional air quality impact due to the proposed project will be reduced to an extent with implementation of proposed mitigation measures, however, carbon monoxide, reactive organic gases and nitrogen oxide emissions are estimated to exceed the SCAQMD thresholds and are considered significant. See Final EIR pages V-34 through V-40

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures E-1 through E-32 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Specific economic, social, legal, technical or other considerations make the alternatives identified in the Final Environmental Impact Report infeasible. However, conditions of approval and proposed mitigation measures will reduce, to the extent feasible, the adverse air quality impacts.

4. Supportive Evidence – Temporary air quality impacts will result from project construction activities. Air pollutants will be emitted by construction equipment and fugitive dust will be generated during grading of the site. Particulate emissions due to the construction activities are projected to be greater than SCAQMD thresholds of significance.

200

EXHIBIT " A "

Future CO concentrations are not projected to exceed the Federal or State concentration standards with the project. Therefore, the project is not projected to result in a significant local air quality impact.

The primary source of regional emissions generated by the Banning Bench Specific Plan will be from motor vehicles. Emissions will also be generated by the use of natural gas and oil for the generation of electricity off-site. The CO, ROG and NOx emissions from long-term operations of the project will be above the SCAQMD significance thresholds.

C. Noise

1. Impacts – Off-site cumulative noise impacts due to development of the project in combination with all other growth expected in the area will expose existing residences to noise levels in excess of the City's 65 CNEL standard. This is considered to be a regional impact that cannot be reduced to an insignificant level. See Final EIR pages V-48 through V-59

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures F-1 through F-6 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Specific economic, social, legal, technical or other considerations make the alternatives identified in the Final Environmental Impact Report infeasible. However, conditions of approval and proposed mitigation measures will reduce, to the extent feasible, the adverse noise impacts.

4. Supportive Evidence – The proposed project results in substantial noise increases along two roadway segments: Sunset Avenue from Nicolet Street to Wilson Street and from Wilson Street to the Main Entry Road to the project. Sunset Avenue between Wilson Street and the Main Entry Road runs alongside the project and there are no existing residences located on the other side of the roadway. The other roadway segment that experiences substantial noise increases is Sunset Avenue between Nicolet Street and Wilson Street where there are existing residences.

D. Aesthetics

1. Impacts – The proposed widening of Sunset Avenue to four lanes will result in significant visual impacts to adjacent slopes that cannot be reduced to an insignificant level. See Final EIR pages V-107 through V-115

2. Mitigations – Refer to Conditions of Approval and Mitigation Measures I-1 through I-4 as set forth in the Mitigation Monitoring Program attached as Exhibit A to these Findings.

3. Findings –

   a. Specific economic, social, legal, technical or other considerations make the alternatives identified in the Final Environmental Impact Report infeasible. However, conditions of approval and proposed mitigation measures will reduce, to the extent feasible, the adverse aesthetics impacts.

4. Supportive Evidence – The visual impacts associated with the widening of Sunset Avenue from its current two-lane to a four-lane configuration will result in significant visual impacts due to the required combination of retaining walls and landscaped slopes. According to the project engineer, a four-lane roadway configuration will result in the creation of cut slopes up to 75 feet in height (with a 2:1 horizontal:vertical slope) or retaining walls of up to 20 feet in height at certain locations.

202

EXHIBIT " A "

SECTION 5

GROWTH-INDUCING IMPACTS OF THE PROPOSED PROJECT

The State CEQA Guidelines (Section 15126 (g)) require an EIR to discuss how a proposed project could directly or indirectly lead to economic, population or housing growth. A project may be growth-inducing if it removes obstacles or impediments to growth, taxes community service facilities or encourages other activities or sets precedents which cause significant environmental effects. The potential growth-inducing impacts of the proposed project are discussed below in terms of these criteria.

Economic, Population or Housing Growth

The proposed Banning Bench Specific Plan will generate a total of 944 dwelling units and 2,502 new residents based upon a population generation factor of 2.65 persons per dwelling unit. This population and housing generation represents a 9.8% increase over current (January 2003) City population totals and a 9.1% increase over current housing totals. The on-site Village Office/Commercial Center, Quasi-Public Use Area and golf course will generate additional employment opportunities. These new employees represent an addition to the socio-economic profile of the Banning area. However, it is anticipated that a significant number of these employment opportunities created on-site will be filled by individuals who already reside in the area or live close enough to Banning to not require relocation. As such, new employees of on-site facilities are not expected to generate a significant increase in housing demand.

Removal of an Impediment to Growth

In order to fully evaluate whether the proposed Banning Bench Specific Plan results in a removal of an impediment to growth, the project site in relation to its surroundings must be evaluated. The project site is surrounded on three sides (north, west and east) by areas that are either vacant or contain scattered single family residences. Areas to the south of the site include the Gilman Historic Ranch, existing residential neighborhoods and undeveloped open space. There are no pending development plans for these adjacent areas. In addition, many of these surrounding areas to the west, northeast, east and south are separated topographically from the project site. Project development will, therefore, not alter the development potential of these immediately surrounding areas.

Development of the Banning Bench Specific Plan is expected to require the improvement or expansion of roadways and infrastructure facilities in order to serve the development project. These facilities will emanate from existing utility lines and surrounding roadways and will be sized to serve only this project and not oversized to serve adjacent parcels. The sole exception involves the proposed widening and improvement of Sunset Avenue north of Wilson Street. Sunset Avenue is proposed to be improved to a four-lane (two travel lanes per direction) roadway for approximately 1.7 miles to the north of Wilson Street. The remaining 2,000 feet of Sunset Avenue leading

203

EXHIBIT " A "

to the northern project boundary will be improved in its current two-lane configuration. This roadway improvement meets or exceeds the requirements of the City of Banning, Circulation Element. This improved roadway will allow for increased access to areas north of the Banning Bench site. The project traffic analysis assesses future traffic conditions based upon six cumulative traffic scenarios involving various land use and traffic assumptions generated by future development in the area. One future development is the Black Bench Specific Plan, which as the subject of a Development Agreement with the City of Banning, involves a future development with a total of 1,500 dwelling units located at the western City limits. This project may utilize Sunset Avenue for at least a portion of the traffic generated by this proposal. It will also be served by the extension of Highland Springs Road. It should also be noted that the proposed project traffic combined with existing traffic levels can be accommodated by the current two-lane configuration of this roadway. Therefore, this proposed improvement to Sunset Avenue eliminates a potential constraint upon development of areas to the northwest of the project site. This removal of an impediment to growth could generate economic pressures and increased land values on adjacent parcels thereby serving as a growth-inducement to these adjacent areas. This is considered a significant adverse environmental impact.

Impact on Community Service Facilities

The proposed Banning Bench Specific Plan is not expected to significantly impact any public services such as police and fire protection, schools or solid waste services and utilities and service systems such as energy, communications systems, water supply and wastewater treatment or existing recreational facilities.

Precedent-Setting Effects

Precedent setting concerns are defined as the ability of a project to set an example of what can be developed on other parcels with similar land use designations and parcels of land situated in similar locations within the project area and with similar constraints. Parcels of land potentially susceptible to precedent-setting effects of the proposed project include open space areas to the north, west and east of the project site and other adjacent open space areas in the vicinity. The Banning Bench site is located in a transitional area between developed land uses to the south and lower density residential uses and open space areas to the north and west. Areas to the northwest and east of the site are topographically constrained. Given the undeveloped nature of these areas, project approval may set a precedent for similar proposals elsewhere in the vicinity. Combined with the growth-inducing aspects of the proposed Sunset Avenue improvements, these growth-inducing and precedent-setting effects are considered to be significant.

204

EXHIBIT " A "

SECTION 6

FINDINGS REGARDING ALTERNATIVES

Alternatives to the proposed project described in the Final Environmental Impact Report were considered. The alternatives discussed in the Final EIR constitute a reasonable range of potential options necessary to permit a reasoned choice. The Final EIR identified the No Project Alternative, the Reduced Project Alternative, the Two-Lane Sunset Avenue Alternative, the Non-Recreation Alternative and the Non-Commercial Alternative as "environmentally superior" to the proposal project but approves the proposed project with the Conditions of Approval and Final EIR mitigation measures which will provide a substantial mitigation of the potential environmental effects. Consequently, in accordance with Section 15093 of the State CEQA Guidelines, a Statement of Overriding Considerations has been prepared (See Section 3 of these Findings) to substantiate the City's decision to reject the environmentally preferred alternatives because of the benefits afforded by the proposed project.

A. No Project Alternative

Description of Alternative: The No Project Alternative would retain the 600 acre Banning Bench site in its present condition and land use. The project site is currently undeveloped, vacant open space that has in the past been used for cattle grazing. The site currently provides a passive open space function.

Comparison of Effects: The No Project Alternative eliminates all of the environmental effects of the proposed project identified in Sections 2 through 4 herein, including all significant unavoidable adverse impacts associated with the proposed project. It is therefore, considered an "environmentally superior" alternative.

Findings: After comparing the relative impacts and benefits of the proposed project and the No Project Alternative, the City of Banning did not select this Alternative. However, Conditions of Approval, monitored mitigation measures and features incorporated into the proposed project, as described in Sections 1 and 2 of these Findings, will substantially reduce the environmental effects of the proposed project.

Facts: The No Project Alternative fails to meet the following project objectives: provide a variety of housing types; attract commercial uses; provide a public use area; provide recreational facilities; encourage pedestrian/bicycle use; offer a school site; create employment opportunities and provide a comprehensive planning approach. The No Project Alternative also eliminates the other benefits associated with the proposed project as listed in Section 1 of these Findings. For these reasons, the No Project Alternative was rejected.

205

EXHIBIT " A "

B. Non-Commercial Alternative

Description of Alternative The Non-Commercial Alternative involves development of the proposed Banning Bench Specific Plan without the proposed ten acre Village Office/Commercial Center thereby eliminating 90,000 square feet of commercial uses and office space.

Comparison of Effects: The extent of grading and the associated impacts on the site landform, geologic conditions and site drainage with this alternative are expected to be similar to those impacts associated with the proposed project.

Elimination of on-site commercial/office uses will result in an elimination of 3,233 vehicle trips per day or 24% of total project vehicle trip generation destined for this proposed use. However, without such on-site facilities, residents as well as those residing in adjacent areas will travel further to reach commercial or office-related destinations. While the total number of project-related vehicle trips may be reduced with this alternative, the average trip lengths of the remaining project-related vehicle trips and overall vehicle miles traveled may be slightly less, equal to or greater than the proposed project.

Development of the Non-Commercial Alternative is expected to have similar impacts to biological resources as compared to the proposed project.

The Non-Commercial Alternatives reduces the range and complementary nature of land uses proposed within the Banning Bench Specific Plan. This alternative requires approval of a General Plan Amendment and zone change by the City of Banning in order to accommodate its proposed uses.

Development of the Non-Commercial Alternative will result in a reduction in the visual impacts and generation of light and glare as compared to the proposed project. The visual impacts of the proposed Village Office/Commercial Center particularly for travelers on Sunset Avenue would be eliminated with this Alternative.

Due to the elimination of proposed office/ commercial uses, a reduction in impacts to existing public services and utilities as compared to the proposed project will result.

The Non-Commercial Alternative will result in significant land use, air quality, noise and aesthetic impacts similar to the proposed project.

Findings: After comparing the relative impacts and benefits of the proposed project and the Non-Commercial Alternative, the City of Banning did not select this Alternative. However, Conditions of Approval, monitored mitigation measures and features incorporated into the proposed project, as described in Sections 1 and 2 of these Findings, will substantially reduce the environmental effects of the proposed project.

206

EXHIBIT " A "

Facts: The Non-Commercial Alternative fails to meet the following project objective: attract commercial uses and meets the following objective to a level that is significantly less than the proposed project: create employment opportunities. For these reasons, the Non-Commercial Alternative was rejected.

C. Non-Recreation Alternative

Description of Alternative: The Non-Recreation Alternative involves development of the project without the proposed 184.4 acre golf course, clubhouse and driving range thereby eliminating a significant portion of the on-site recreational opportunities. Many of the areas devoted to the proposed golf course would become divided into larger residential lots or would remain as open space within this alternative.

Comparison of Effects: The extent of grading associated impacts on the site landform, geologic conditions and site drainage with this alternative are expected to be reduced as compared to those impacts associated with the proposed project.

Elimination of the proposed golf course, driving range and clubhouse will result in the elimination of 643 vehicle trips per day or 4.8% of total project vehicle trip generation destined for this proposed on-site use. However, without these recreation facilities on-site, residents will travel further to reach similar destinations. While the total number of project-related vehicle trips may be slightly reduced with this alternative, the average trip length of the remaining project-related vehicle trips and overall vehicle miles traveled may only be slightly less, equal to or greater than the proposed project.

Development of the Non-Recreation Alternative is expected to reduce impacts to biological resources as compared to the proposed project due to the reduction in graded area.

The Non-Recreation Alternative reduces the range and complementary nature of land uses proposed within the Banning Bench Specific Plan. This alternative requires approval of a General Plan Amendment and zone change by the City of Banning in order to accommodate its proposed uses.

Development of the Non-Recreation Alternative will result in a slight reduction in the generation of visual impacts and light and glare levels compared to those associated with the proposed project due to the elimination of the proposed golf clubhouse and parking lot. However, the elimination of the proposed golf course and driving range significantly reduces the amount of landscaped, green areas within the project which are considered by many to represent a positive visual asset.

Due to the elimination of the proposed golf course, driving range and clubhouse within the Non-Recreation Alternative, slightly reduced impacts to most public services and utilities as compared to the proposed project will result. Elimination of the proposed golf course, driving range and clubhouse will result in a significant reduction in project-related water demand.

207

EXHIBIT " A "

The Non-Recreation Alternative will result in significant land use, air quality, noise and aesthetic impacts similar to the proposed project.

Findings: After comparing the relative impacts and benefits of the proposed project and Non-Recreation Alternative, the City of Banning did not select this Alternative. However, Conditions of Approval, monitored mitigation measures and features incorporated into the proposed project, as described in Sections 1 and 2 of these Findings, will substantially reduce the environmental effects of the proposed project.

Facts: The Non-Recreation Alternative meets the following project objectives to a level of significantly less or less than the proposed project: provide recreational facilities; create employment opportunities and develop an attractive environment. For these reasons, the Non-Recreation Alternative was rejected.

D. Reduced Project Alternative

Description of Alternative: The Reduced Project Alternative would result in the development of a smaller project as compared to the proposed project. Within this alternative, approximately 500 single family dwelling units on a total of 125 acres would be developed on the Banning Bench site. In addition, 30 acres would be devoted to on-site roadways. No other commercial, institutional or recreation land uses are provided within this alternative. This alternative would be served by a two-lane configuration for Sunset Avenue.

Comparison of Effects: The extent of grading associated impacts on the site landform, geologic conditions and site drainage are expected to be significantly reduced as compared to those impacts associated with the proposed project.

Although project residents will be required to travel off-site for commercial, institutional and recreation destinations, the number of vehicle miles generated by this alternative are estimated to be significantly less (4,785 vehicle trips per day or 35% of total project traffic) than the proposed project. Impacts to off-site roadways as well as associated noise and air quality impacts are expected to be reduced to a similar degree.

The Reduced Project Alternative provides a total of 125 acres of single family residential uses within a significantly reduced development area as compared to the proposed project. The significant growth-inducing impacts associated with the proposed project are reduced but not eliminated with this alternative.

Development of the Reduced Project Alternative is expected to reduce impacts to biological resources as compared to the proposed project due to the reduction in graded area.

Development of Reduced Project Alternative will result in significantly reduced visual impacts and light and glare levels as compared to those associated with the proposed

208

EXHIBIT " A "

project due to the provision of a significantly reduced project. Significant visual impacts associated with the proposed widening of Sunset Avenue are eliminated with this alternative.

The Reduced Project Alternative will result in significantly reduced impacts upon public services and utilities as compared to the proposed project due to the significant reduction in size and scale of this alternative as compared to the proposed project.

The Reduced Project Alternative will result in significant air quality impacts similar to the proposed project

Findings: After comparing the relative impacts and benefits of the proposed project and the Reduced Project Alternative, the City of Banning did not select this Alternative. However, Conditions of Approval, monitored mitigation measures and features incorporated into the proposed project, as described in Sections 1 and 2 of these Findings, will substantially reduce the environmental effects of the proposed project.

Facts: The Reduced Project Alternative fails to meet the following project objectives: attract commercial uses; provide a public use area; offer a school site and create employment opportunities. The Reduced Project Alternative meets the following project objectives to a level significantly less than the proposed project: provide a variety of housing types and provide recreation facilities. For these reasons, the Reduced Project Alternative was rejected.

E. Two-Lane Sunset Avenue Alternative

Description of Alternative: The Two Lane Sunset Avenue Alternative involves development of the proposed Banning Bench Specific Plan while maintaining Sunset Avenue in its current two-lane configuration with roadway and parkway improvements. According to the project Traffic Analysis, existing plus project traffic levels plus traffic associated with area-wide growth (without development of the proposed Black Bench Specific Plan) can be accommodated by a two-lane configuration of Sunset Avenue north of Wilson Street.

Comparison of Effects: The extent of grading and the associated impacts on the site landform, geologic conditions and site drainage are expected to be reduced as compared to those impacts associated with the proposed project due to the elimination of major grading adjacent to Sunset Avenue.

The Two-Lane Sunset Avenue Alternative generates similar traffic levels and associated circulation and noise impacts as the proposed project. Short-term (grading-related) air quality impacts associated with this alternative will be reduced due to the elimination of major grading adjacent to Sunset Avenue.

209

EXHIBIT " A "

Development of the Two-Lane Sunset Avenue Alternative is expected to reduce impacts to biological resources due to the elimination of major grading adjacent to Sunset Avenue which impacts approximately two acres of riparian woodland habitat.

The Two-Lane Sunset Avenue Alternative will have similar on-site land use impacts in the proposed project. However, the significant growth-inducing impacts associated with the proposed project are reduced but not eliminated with this alternative. This alternative requires approval of a General Plan Amendment and zone change by the City of Banning in order to accommodate its proposed uses.

Development of the Two-Lane Sunset Avenue Alternative will result in a significant reduction in project-related visual impacts due to the elimination of major grading adjacent to Sunset Avenue which eliminates the required landscaped slopes and retaining walls associated with the proposed widening of Sunset Avenue to four lanes. Significant visual impacts associated with the proposed widening of Sunset Avenue are eliminated with this alternative.

This alternative will generate similar impacts upon public services and utilities as the proposed project.

The Two-Lane Sunset Avenue Alternative will result in significant noise and air quality impacts similar to the proposed project

Findings: After comparing the relative impacts and benefits of the proposed project and the Two-Lane Sunset Avenue Alternative, the City of Banning did not select this Alternative. However, Conditions of Approval, monitored mitigation measures and features incorporated into the proposed project, as described in Sections 1 and 2 of these Findings, will substantially reduce the environmental effects of the proposed project.

Facts: The Two-Lane Sunset Avenue Alternative meets the project objectives in a manner equal to the proposed project. This Alternative was rejected due to its retention of Sunset Avenue in its current two lane configuration.

F. Alternate Land Uses

Description of Alternative: Three types of Alternate Land Uses were considered in the Final EIR: 1) alternate land uses permitted within the existing Land Use Designations (Rural Residential, Very Low Residential and Residential Agriculture) currently applied to the project site; 2) recreational land uses and 3) commercial land uses.

Comparison of Effects: The amount of developed area and extent of grading will vary significantly among the range of alternate land uses noted above. The impacts on site landforms, geologic conditions and site drainage are likely to be similar than those associated with the proposed project.

210

EXHIBIT " A "

The number of automobile trips generated by the alternate land uses noted above will vary significantly. Traffic impacts as well as associated noise and air quality impacts would differ from the proposed project in a similar manner.

Development of the alternate land uses noted above will likely result in similar impacts to biological resources as compared to the proposed project.

The alternate land uses noted above vary significantly in character and function as compared to the proposed project.

Development of the alternate land uses noted above will result in visual impacts and light and glare impacts that will vary significantly depending upon the nature and extent of the uses proposed. Residential and recreational land uses will likely have reduced visual impacts as compared to the commercial land uses that would have increased visual impacts as compared to the proposed project.

Development of the alternative land uses noted above will result in impacts to public services and utilities that will vary significantly depending upon the nature and extent of the uses proposed. Residential and recreational land uses will likely have reduced impacts on certain public services and utilities as compared to the proposed project while commercial land uses would have increased public services and utilities impacts as compared to the proposed project.

The alternate land uses noted above will likely have significant land use, air quality, noise and aesthetic impacts similar to the proposed project

Findings: Conditions of Approval and monitored mitigation measures, as described in Sections 2 and 3 of these Findings, will reduce the environmental effects of the proposed project.

Facts: The alternate land uses noted above will likely meet the following project objectives to less than the proposed project: provide a variety of housing types; attract commercial uses; provide a public use area; provide recreation facilities; offer a school site; create employment opportunities; develop an alternative environment and provide a comprehensive planning approach. For these reasons, the alternative land uses noted above were rejected.

G. Alternative Project Sites

Description of Alternative: The State CEQA Guidelines require an evaluation of reasonable alternatives to the location of the proposed project when appropriate. Alternative project sites should be considered when the proposed project results in unavoidable significant adverse impacts.

A primary constraint in this consideration is finding a site of nearly equivalent size under a single ownership which is either not the subject of a development application or

211

EXHIBIT " A "

approval or not possessing significant (and possibly additional) environmental constraints of its own. The consideration of alternative project sites must be based upon their feasibility and their ability to meet the project objectives. For the purpose of providing a full range of alternatives, the scope of this alternative project sites analysis involves the following two elements: 1) identification of any similar project(s) currently proposed elsewhere in the area and 2) alternative site locations for the proposed project.

Based upon a review of other cumulative projects in the Banning area, four other projects within the area involve the development of land uses similar to those proposed within the Banning Bench Specific Plan. The proposed Sun Lakes Country Club-South, Sun Lakes Country Club-North, the Deutsch Property and Black Bench Ranch.

Several locations throughout the Banning area were evaluated in the Final EIR for their feasibility as alternate project sites all of which possessed constraints to development which exceed those associated with the proposed project. For these reasons, the alternative project sites were rejected.

212

EXHIBIT " A "

SECTION 7

FINDINGS REGARDING MITIGATION MONITORING PROGRAM

Section 21081.6 of the Public Resources Code requires that when a public agency is making the findings required by State CEQA Guidelines Section 15091(a) (1), codified as Section 21081(a) of the Public Resources Code, the public agency shall adopt a reporting or monitoring program for the changes to the proposed project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment.

The City of Banning hereby finds and accepts that the Mitigation Monitoring Program, which is attached as Exhibit A to these Findings, meets the requirements of Section 21081.6 of the Public Resources Code by providing for the implementation and monitoring of measures intended to mitigate potential environmental impacts.

213

EXHIBIT " A "

SECTION 8

SECTION 15091 AND 15092 FINDINGS

Based on the foregoing findings and the information contained in the record, the City of Banning has made one of more of the following findings with respect to the significant effects of the proposed project:

a. Changes or alterations have been required in, or incorporated into, the proposed project which avoid or substantially lessen the significant environmental effects as identified in the Final Environmental Impact Report.

b. Some changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.

c. Specific economic, social, legal, technical or other considerations make the mitigation measures or alternatives identified in the Final Environmental Impact Report infeasible.

Based on the foregoing findings and the information contained in the record, and as conditioned by the foregoing findings:

a. All significant effects on the environment due to the proposed project have been eliminated or substantially lessened where feasible as discussed in Sections 1 and 2 of these Findings.

b. The benefits of the proposed project set forth in the foregoing Statement of Overriding Considerations, as noted in Section 3 of these Findings, outweigh any remaining significant effects of the project on the environment found to be unavoidable.

214

EXHIBIT " A "

RESOLUTION NO. 2005-105

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING GENERAL PLAN AMENDMENT #04-2502, TO CHANGE THE LAND USE DESIGNATION FROM VERY LOW DENSITY RESIDENTIAL AND RURAL RESIDENTIAL TO SPECIFIC PLAN ON 600 ACRES LOCATED NORTH OF WILSON STREET AND EAST OF SUNSET AVENUE

WHEREAS, an application for General Plan Amendment 04-2502, to change the land use designation from Very Low Density Residential and Rural Residential to Specific Plan on 600 acres located north of Wilson Street and east of Sunset Avenue, has been duly filed by:

Applicant / Owner:	Loma Linda University
Authorized Agent:	N/A
Project Location:	North of Wilson Street, on the east side of Sunset Avenue
APN Number:	531-060-014 through -017, 531-060-032 through -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 through -019, 535-060-002, 535-060-005
Lot Area:	600 Acres

WHEREAS, the Municipal Code allows for General Plan Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on the 16th day of September 2005, the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette newspaper and notices to property owners within 1200 feet of the site were mailed a public hearing notice of the holding of a public hearing at which the project would be considered; and

WHEREAS, in accordance with Government Code Section 66452.3, the City has provided the applicant a copy of the Community Development report and recommendation to the City Council at least three (3) days prior to the below referenced noticed public hearing; and

WHEREAS, on the 2nd day of August 2005, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the General Plan Amendment and at which time the Planning Commission recommended approval to the City Council of the General Plan Amendment; and

WHEREAS, on the 27th day of September 2005, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the General Plan Amendment and at which time the City Council considered the General Plan Amendment; and

WHEREAS, the City Council approved and certified the Environmental Impact Report prepared for the proposed project.

NOW THEREFORE, the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated the 27th day of September 2005, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. CEQA: The approval of this General Plan Amendment is in compliance with the requirements of the California Environmental Quality Act ("CEQA"), in that an Environmental Impact Report was prepared reflecting its independent judgment and analysis and documenting the potential significant impacts associated with implementation of the proposal. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 East Ramsey Street, Banning, California 92220.

2. Multiple Species Habitat Conservation Plan (MSHCP). The project is found to be consistent with the MSHCP. The project is located outside the MSHCP criteria area and habitat assessments for the required species have been completed.

SECTION 2. GENERAL PLAN CONSISTENCY

The City Council finds that approval of this General Plan Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan encourages the development of master planned communities under Specific Plans, and the proposed designation will allow the development of a master planned community in the same density range as that occurring on other properties in the area.

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. Approve General Plan Amendment. The City Council hereby approves General Plan Amendment 04-2502.

PASSED APPROVED AND ADOPTED this 27th day of September 2005.

JOHN MACHISIC, MAYOR

APPROVED AS TO FORM AND LEGAL CONTENT:

Julie Biggs,
City Attorney
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2005-105, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the ____day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning

RESOLUTION NO. 2005-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING SPECIFIC PLAN #04-201, TO ESTABLISH THE DEVELOPMENT STANDARDS AND GUIDELINES TO ALLOW THE DEVELOPMENT OF 944 RESIDENTIAL UNITS, COMMERCIAL AND PUBLIC USES ON 600 ACRES LOCATED NORTH OF WILSON STREET AND EAST OF SUNSET AVENUE

WHEREAS, an application for Specific Plan 04-201, to establish the development standards and guidelines for the development of 944 residential units, commercial and public land uses on 600 acres, has been duly filed by:

Applicant / Owner:	Loma Linda University
Authorized Agent:	N/A
Project Location:	North of Wilson Street, on the east side of Sunset Avenue
APN Number:	531-060-014 through -017, 531-060-032 through -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 through -019, 535-060-002, 535-060-005
Lot Area:	600 Acres

WHEREAS, the Municipal Code allows for the preparation of Specific Plans when land use amendments are proposed; and

WHEREAS, on the 16th day of September 2005, the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette newspaper and notices to property owners within 1200 feet of the site were mailed a public hearing notice of the holding of a public hearing at which the project would be considered; and

WHEREAS, in accordance with Government Code Section 66452.3, the City has provided the applicant a copy of the Community Development report and recommendation to the City Council at least three (3) days prior to the below referenced noticed public hearing; and

WHEREAS, on the 2nd day of August 2005, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Specific Plan and at which time the Planning Commission considered the Specific Plan and recommended approval by the City Council; and

WHEREAS, on the 27th day of September 2005, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Specific Plan and at which time the City Council considered the Specific Plan; and

WHEREAS, the City Council certified the Environmental Impact Report prepared for the proposed project.

NOW THEREFORE, the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated 27th day of September 2005, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. CEQA: The approval of this Specific Plan is in compliance with the requirements of the California Environmental Quality Act ("CEQA"), in that an Environmental Impact Report was prepared reflecting its independent judgment and analysis and documenting the potential significant impacts associated with implementation of the proposal. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 East Ramsey Street, Banning, California 92220.

2. Multiple Species Habitat Conservation Plan (MSHCP). The project is found to be consistent with the MSHCP. The project is located outside the MSHCP criteria area and habitat assessments for the required species have been completed.

SECTION 2. GENERAL PLAN CONSISTENCY

The City Council finds that the Specific Plan is consistent with the General Plan, as amended, insofar as the General Plan encourages the development of master planned communities through Specific Plans, and provides for a Specific Plan designation to allow such master planning.

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. Approve Specific Plan. The City Council approves Specific Plan 04-201 subject to the Conditions of Approval attached hereto and incorporated herein by reference as Attachment "1".

PASSED APPROVED AND ADOPTED this 27th day of September 2005.

JOHN MACHISIC, MAYOR

APPROVED AS TO FORM AND LEGAL CONTENT:

Julie Biggs,
City Attorney
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2005-107, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the ____day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning

CONDITIONS OF APPROVAL

GENERAL CONDITIONS

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

2. Prior to the issuance of any grading, construction, or building permit by the City, the applicant shall obtain any necessary clearances and/or permits from the following agencies:

   - Fire Marshal
   - Public Works Department (Grading Permit, Improvement Permit)
   - City Water, Sewer and Electric Departments
   - Community Development Department
   - Riverside Co. Flood Control and Water Conservation District
   - Banning Unified School District
   - California Water Quality Control Board (CWQCB)
   - California Department of Fish and Game
   - US Fish and Wildlife Service
   - US Army Corps of Engineers
   - SCAQMD

221

EXHIBIT " I "

The applicant is responsible for all requirements of the permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting those improvements plans for City approval.

3. Prior to recordation of the first parcel or tract map, the applicant shall form, to the satisfaction of the City Engineer and the City Attorney, a homeowners' association, assessment district, landscaping and lighting district, or other vehicle, for the maintenance of all common areas, including landscaped parkways within public rights of way, in perpetuity.

4. The local street standard shall be amended to include a 10 foot parkway on each side of a 40 foot paved width, to allow sufficient space for public utilities.

5. The local street standard for planning area 9 shall be amended to include sidewalks on one side of all local streets.

6. The construction of the on-site wastewater treatment plant shall occur with Phase I of development, and shall be complete prior to the first occupancy on the site.

7. All lots on final maps shall include sewering for tertiary or reclaimed water. Reclaimed water from the on-site treatment plant shall be used for project golf course, parks and open space. Should reclaimed water become available from City sources adjacent to the project, the proposed project shall have the capability to connect to these facilities.

8. One year after the initiation of construction, and annually thereafter until buildout of the proposed project, the project proponent shall supply the City with an analysis of actual water usage per unit, adjusted projected water usage for future development (based on actual on-site usage), and actual City water supplies. At any time should projections show that the proposed project and cumulative development will require water supplies in excess of the Maximum Perennial Yield, no further building permits shall be issued until such time as additional water sources are delivered to the project or the City's water system.

9. The mitigation measures included in the Banning Bench Environmental Impact Report (SCH #2001061131) are incorporated into these conditions of approval by this reference.

10. The Specific Plan shall be amended to delete references to standards in the Specific Plan Overlay Development Zone, and to city of Beaumont standards.

11. The Specific Plan shall be amended to clarify the wood siding shall be "wood like" siding, subject to the approval of the Fire Department.

222

EXHIBIT " / "

12. Should the Banning Unified School District and the project proponent come to an agreement on the conveyance of land within the Specific Plan to the District, the project proponent shall cause that land to be rough-graded prior to conveyance.

13. The Specific Plan shall be amended to change the second sentence of item #7 on page III-33 to read "These measures ~~may~~ **shall** include..."

FIRE DEPARTMENT CONDITIONS

14. CITY OF BANNING BUSINESS LICENSE AND PROOF OF INSURANCE: All contractors, subcontractors etc. are required to obtain a City of Banning Business license prior to submitting plans or starting construction.

15. CODE COMPLIANCE: All Plans, Specifications and Construction shall comply with and conform to the current edition of the Uniform Fire Code (UFC), Uniform Building Code (UBC), and other state and local laws as applicable.

16. PLAN SUBMITTAL: Three (3) Sets of Plans and Specifications shall be submitted for review prior to obtaining a permit. This requirement applies to all work regardless of the size of the job; new construction or remodel.

17. SPRINKLER SYSTEMS REQUIRED: Fire Sprinkler Systems shall be installed as required by the UFC or in any and all structures that are ten thousand (10,000) sq. ft. or more, or that are at or beyond the Fire Department's response time of ten (10) minutes beginning at the time the call is received at Dispatch.

18. SPRINKLER AND ALARM SYSTEMS: Three (3) sets of plans and calculations, including three (3) sets of manufacturer's hardware specifications, shall be submitted to a State Certified Fire Protection Engineering Firm, designated by the Fire Marshal, for review for compliance with recognized codes and standards. Alarm monitoring stations must be located within 100 miles of the City of Banning or approved by the Fire Marshal.

19. SPRINKLER AND ALARM SYSTEM FEE SCHEDULE:
Inspections - Fire Department: $42.00 per hour, per person. (One-hour minimum)
Additional fees as charged by the designated Fire Protection Engineering Firm.
Plan Checks - Established by the Fire Protection Engineering firm designated.

20. FIRE HYDRANTS: Prior to construction or renovation, fire hydrants shall be provided when any portion of any structure exceeds 150 feet from a water supply on a public street. Spacing of fire hydrants shall comply with UFC Appendix III B and the City of Banning Public Works Standards. Minimum 6-inch riser, street valve, approved shear valve and blue dot identification marker shall be provided for each fire hydrant. The City standard fire hydrant is the Commercial, James Jones #J3765, Residential, James Jones

223

EXHIBIT " / "

#J3700, or an equivalent approved by the Fire Marshal. Fire Hydrants are to be painted by the developer, contractor, etc., prior to the final inspection. (EOS Standard W714) Rustoleum Red, damp proof #769 and two (2) coats of Rustoleum semi-gloss yellow #659, or an approved equivalent.

21. WATER SUPPLY: Fire flow shall be established by the Fire Department using the information provided in the UFC Appendix III A. Fire Flow may be adjusted upward where conditions indicate an unusual susceptibility to fire.

22. FIRE DEPARTMENT ACCESS: Surfaces shall be designed and maintained to support the imposed loads of fire apparatus (65,000gvw). Surfaces shall have all-weather driving capabilities, including bridges. All roads must be place and meet the above standard before any combustible materials can be delivered to the site. Minimum turning radius shall be 42 feet. All dead-end access roads in excess of 150 feet shall have approved provisions for turning around of fire apparatus. A turn around area shall be provided at the property's northern boundary of Wingate Drive.Two means of ingress/egress shall be provided for emergency vehicles and fire apparatus.

23. PREMISES IDENTIFICATION: Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

24. SPARK ARRESTORS: Chimneys used in conjunction with fireplaces or heating appliances in which solid or liquid fuel is used shall be maintained with an approved spark arrestor.

Residential - 3-1/2" mm. Size

25. INSPECTIONS: Inspections shall be requested a minimum of forty-eight (48) hours prior to the time the required inspection is needed. Fee for each inspection is $42.00 per hour per person. Exception, residential inspections are $21.00 per unit per person. Work begun without a permit or without an approved set of plans at the job site will result in a triple fee and/or the work stopped.

26. OTHER REQUIREMENTS: All fire hydrants must be in place and working prior to combustible construction material being delivered to the site. All access roads must be in place and capable of supporting 65,000 gvw vehicles in all weather conditions prior to combustible construction material being delivered to the site.

27. If the above conditions are not met, the project is in violation of the Uniform Fire Code and construction will be halted until the violations are corrected.

ENGINEERING DIVISION CONDITIONS

224

EXHIBIT " / "

28. Roadways shall be designed as depicted in the Specific Plan. The project proponent shall be responsible for the acquisition of all necessary rights of way for streets within and adjacent to the project.

29. Sunset Avenue shall be constructed to its ultimate full width along the entire property boundary with Phase I development.

30. Submit Street Improvement Plans, prepared by a licensed professional engineer, to the Engineering Division for review and approval. Construct street improvements, consisting of new A.C. pavement, landscaped areas within the parkway between the curb and property line and in any open spaces, sidewalks where required, curb, gutter, driveway approaches, handicap access ramps, streetlights, traffic signs, striping, street name signs and roadway striping, etc. The Geotechnical Engineer shall determine the traffic index and R value for pavement design on all the streets.

31. Automatic sprinkler systems shall be installed within the landscaped parkway in the right of way on any street.

32. Submit Water Improvement Plans to the Public Works Department for review and approval. Waterlines to be constructed to and across property boundaries of the project per the City of Banning Standard Specifications. During phasing of the project, all waterlines are to be looped for each phase (two points of connection).

33. Submit a hydraulic analysis, prepared by a licensed Civil Engineer, showing that the project or project phase will meet all required water pressures and fire flows.

34. Project proponent shall submit plans for on-site sanitary sewage facility for review and approval by the Public Works Department prior to issuance of building permits for any structure within the project area. On-site sanitary sewage facility shall be operational prior to the occupancy of the first structure within the project area.

35. The Storm Drain Plan for the proposed project shall be accompanied by hydrology and hydraulic analysis, for both developed and undeveloped conditions, prepared by a licensed engineer and shall be designed per the Riverside County Flood Control and Water Conservation District (RCFC&WCD) Hydrology Manual. The hydraulic design shall be submitted to the Engineering Division for review and approval, per the RCFC & WCD's Manual.

36. The property's street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area, outlet points and outlet conditions; otherwise, a drainage easement shall be obtained from the affected property owners for the release of concentrated or diverted storm flows

EXHIBIT " / "

225

37. Submit drainage/hydrology study calculations and a hydraulic analysis, for both developed and undeveloped conditions, to the City of Banning, for review and approval. All of the drainage from each individual lot shall drain into the public right-of-way and not impact surrounding properties, or a drainage easement acceptance letter from the adjacent landowner must be obtained. The retention basins, landscape and open space areas shall be landscaped and maintained by the Developer, until the City fully accepts the areas to be included in Landscape Maintenance District No. 1, and then for one year past the City's Acceptance date.

38. The 10-year storm flow shall be contained within the curb and the 100-year storm flow shall be contained within the street right-of-way. When either of these criteria is exceeded, additional drainage facilities shall be installed.

39. File a Notice of Intent, prepare a Storm Water Pollution Prevention Plan (SWPPP), obtain an NPDES Construction Activity General Permit from the State Regional Water Quality Control Board and submit a copy of each to the Engineering Division prior to obtaining a Grading Permit from the City of Banning. Ensure that Best Management Practices (BMPs) are followed, per NPDES requirements to reduce storm water runoff during construction and thereafter. Temporary erosion control measures shall be implemented immediately following rough grading to prevent deposition of debris into downstream properties or drainage facilities.

40. Amount of bonding of public improvements shall be as follows:

Faithful Performance Bond.....100% of Estimated Cost
Labor & Material Bond.....100% of Estimated Cost
Monumentation Bond $5,000.00

The amounts shall be on file in the City Clerk's Office prior to the Final Map going to City Council for approval.

41. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.

42. A Plan Check fee for Final Map review and all Improvement Plans, reports, studies, etc. for the proposed subdivision shall be paid prior to plan checking proceedings in accordance with the fee schedule in effect at the time the fees are paid.

43. The Public Works Inspection fee shall be paid prior to the Final Map going to the City Council for approval in accordance with the fee schedule in effect at the time the fees are paid. Public Works permits are required prior to construction within the public right-of-way.

EXHIBIT " / "

226

44. Water and Sewer Connection fees and Water Meter Installation charges shall be paid on a per lot basis, at the time of issuance of building permits. Also, pay all water and sewer frontage fees, if applicable, and in accordance with the fee schedule in effect at the time the fees are submitted, prior to plan checking proceedings.

45. A Plan Storage fee shall be paid prior to approval of Final Maps and improvement plans.

46. A Traffic Signal Mitigation fee or shall be paid on a per lot basis, at the time of issuance of building permits, for each lot within the project.

47. Improvement Plans shall be prepared as a separate set of drawings for each of the following categories:

    a) Rough Grading
    b) Street
    c) Drainage/Storm Drain
    d) Water and Sewer
    e) Precise Grading and Plot
    f) Electrical
    g) Striping
    h) Landscaping

48. Construct all proposed improvements in accordance with the approved Improvement Plans and the City of Banning Standard Specifications for the proposed tract.

49. Street Improvement Plans for the proposed subdivision shall be supplemented with a soil and geology report prepared by a licensed engineer for street structural section design.

50. Submit Rough and Precise Grading Plans to the City for review and approval. All of the grading shall conform to the latest edition of the Uniform Building Code (U.B.C.) and the grading permit must be obtained prior to the commencement of any grading activity. Submit a soil analysis report prepared by a licensed engineer, along with a grading plan.

51. A Public Works Permit shall be obtained prior to the commencement of any work within the City right-of-way. The contractor working within the right-of-way must submit proof of a Class "A" State Contractor's License, City of Banning Business License and liability insurance.

52. All street centerline monument ties shall be submitted to the Engineering Division.

53. All plans, including grading plans, shall be drawn on 24" x 36" Mylar.

EXHIBIT " / "

227

54. The original drawings shall be revised to reflect As-Built conditions by the Design Engineer prior to final acceptance of the work by the City. Water service lines, water meters, sewer laterals and electric, irrigation lines, etc., within the street right-of-way and 5' outside of the street right-of-way shall be shown on the As-Built Water/Sewer Plans. Construction plans for gas, telephone, electric and cable TV etc., shall be submitted to the City for records.

55. If applicable, street name signs and traffic control devices shall be relocated or installed as required per the approved plans and City of Banning Standard Specifications.

56. Submit improvement plans to all affected utilities including the Gas Company, Time Warner, Verizon, etc. Provide all such correspondence to the Engineering Division.

57. Construct all improvements as per the Electrical Improvement Plans approved by the Electric Division.

58. The Developer will be required to participate in the City's Landscape Maintenance District No. 1, for the maintenance of landscape within the public right of way and the open space areas within the development's boundaries and pay all fees and annual assessments associated with the maintenance cost of said Landscape Maintenance District. The Developer shall ensure that all property owners sign a statement acknowledging the fact that they will be assessed upon joining the District. Copies of these disclosures shall be submitted to the Engineering Division.

59. All required water lines and fire hydrants shall be installed and made operable before any building permits for framing are issued. This may be done in phases if the construction work is in progress for emergency vehicles.

60. Individual property owners, in accordance with the existing City policy, shall maintain sewer laterals.

EXHIBIT " / "

228

RESOLUTION NO. 2005-108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING AN AMENDMENT TO THE PREANNEXATION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY AND LOMA LINDA UNIVERSITY, SETTING FORTH THE DEVELOPMENT PARAMETERS ON 600 ACRES LOCATED NORTH OF WILSON STREET AND EAST OF SUNSET AVENUE

WHEREAS, an application for amendment to a Development Agreement, setting forth the development parameters on 600 acres, has been duly filed by:

Applicant / Owner:	Loma Linda University
Authorized Agent:	N/A
Project Location:	North of Wilson Street, on the east side of Sunset Avenue
APN Number:	531-060-014 through -017, 531-060-032 through -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 through -019, 535-060-002, 535-060-005
Lot Area:	600 Acres

WHEREAS, the Municipal Code allows for the preparation and amendment of Development Agreements pursuant to the provisions of the Development Agreement Act (California Government Code Section 65864 et seq.); and

WHEREAS, on the 16th day of September 2005, the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette newspaper and notices to property owners within 1200 feet of the site were mailed a public hearing notice of the holding of a public hearing at which the project would be considered; and

WHEREAS, in accordance with Government Code Section 66452.3, the City has provided the applicant a copy of the Community Development report and recommendation to the City Council at least three (3) days prior to the below referenced noticed public hearing; and

WHEREAS, on the 2nd day of August 2005, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Development Agreement and at which time the Planning Commission recommended approval of the Development Agreement to the City Council; and

WHEREAS, on the 27th day of September 2005, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Development Agreement and at which time the City Council considered the Development Agreement; and

WHEREAS, the City Council considered the Environmental Impact Report prepared for the proposed project and certified same.

NOW THEREFORE, the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated 27th day of September 2005, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. CEQA: The approval of this Development Agreement is in compliance with the requirements of the California Environmental Quality Act ("CEQA"), in that an Environmental Impact Report was prepared reflecting its independent judgment and analysis and documenting the potential significant impacts associated with implementation of the proposal. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 East Ramsey Street, Banning, California 92220.

2. Multiple Species Habitat Conservation Plan (MSHCP). The project is found to be consistent with the MSHCP. The project is located outside the MSHCP criteria area and habitat assessments for the required species have been completed.

SECTION 2. GENERAL PLAN CONSISTENCY

The City Council finds that the Development Agreement is consistent with the General Plan, as amended, insofar as the General Plan encourages the development of master planned communities through Specific Plans, and the Development Agreement requires that a Specific Plan be prepared for this property.

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. Approval of Development Agreement Amendment. The City Council hereby approves Amendment #1 to the Preannexation and Development Agreement between the City and Loma Linda University.

PASSED APPROVED AND ADOPTED this 27th day of September 2005.

JOHN MACHISIC, MAYOR

APPROVED AS TO FORM AND LEGAL CONTENT:

Julie Biggs,
City Attorney
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2005-108, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the ____day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning

ORDINANCE NO. 1330

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING CHANGING THE ZONING DESIGNATION ON 600 ACRES OF LAND FROM RESIDENTIAL AGRICULTURE AND RESIDENTIAL AGRICULTURE-1 TO SPECIFIC PLAN FOR ASSESSOR'S PARCELS 531-060-014 THROUGH -017, 531-060-032 THROUGH -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 THROUGH -019, 535-060-002, 535-060-005

WHEREAS, an application Zone Change has been duly filed by:

Applicant / Owner:	Loma Linda University
Authorized Agent:	N/A
Project Location:	North of Wilson Street, on the east side of Sunset Avenue
APN Number:	531-060-014 through -017, 531-060-032 through -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 through -019, 535-060-002, 535-060-005
Lot Area:	600 Acres

WHEREAS, on the 16th day of September 2005, the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette newspaper and notices to property owners within 1200 feet of the site were mailed a public hearing notice of the holding of a public hearing at which the project would be considered; and

WHEREAS, on the 2nd day of August 2005, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Change and at which time the Planning Commission recommended approval of the Zone Change to the City Council; and

WHEREAS, on the 27th day of September 2005, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Change and at which time the City Council considered the Zone Change; and

WHEREAS, the City Council considered the Environmental Impact Report prepared for the proposed project and certified same.

NOW THEREFORE, the Banning City Council does ordain as follows:

SECTION ONE: The Official Zoning Map of the City of Banning is amended as follows:

Assessor's Parcel Nos. 531-060-014 through -017, 531-060-032 through -034, 531-070-002, 531-070-004, 531-070-006, 531-070-007, 531-070-008, 531-070-009, 531-070-012 through -019, 535-060-002, 535-060-005 and to be designated Specific Plan.

PASSED, APPROVED, AND ADOPTED, this 27th day of September, 2005, at Banning, California.

_____
John Machisic, Mayor

Approved as to form
And legal content:

_____
Julie Hayward-Biggs, City Attorney

ATTEST:

_____
Marie A. Calderon,
City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1330 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 27th day of September, 2005, and was duly adopted at a regular meeting of said City Council on the day of , 2005, by the following vote, to wit:

Ayes:

Noes:

Absent:

Abstain:

_____
Marie A. Calderon, City Clerk
City of Banning

28) All single family residential planning areas (Planning Areas 1 through 8) shall be subject to the development standards as set forth in the table below except where such standards conflict with standards set forth elsewhere in the Specific Plan in which case those other Specific Plan Standards shall prevail.

Maximum Density	0-6 du/ac
Minimum Lot Size [1]	5,000 square feet
Minimum Lot Width	50 feet
Minimum Lot Depth	75 feet
Minimum Front Setback	15 feet
Minimum Rear Setback	10 feet
Minimum Side Yard Setback	5 feet
Minimum Street Side Setback	10 feet
Maximum Building Coverage	40%
Maximum Height[2]	2 stories/35 feet
Maximum Fence/Wall Height	6 feet

[1] Minimum lot size net of public right of way dedication.
[2] Not including belltowers, steeples and similar architectural embellishments not exceeding 10% of the total building area.

29) The attached cluster homes (Planning Area 9) shall be subject to the development standards as set forth in the table below except where such standards conflict with standards set forth elsewhere in the Specific Plan in which case those other Specific Plan Standards shall prevail.

Maximum Density	0-10 du/ac
Minimum Lot Size – Single Parcel Project	2 acres
Minimum Lot Width – Single Parcel Project	150 feet
Minimum Lot Depth – Single Parcel Project	100 feet
Minimum Front Setback – Single Parcel	15 feet
Minimum Rear Setback – Single Parcel	15 feet
Minimum Side Yard Setback – Single Parcel	15 feet
Minimum Street Side Setback – Single Parcel	15 feet
Minimum Lot Size – Individual Lot Subdivision	3,000 square feet
Minimum Front Setback – Individual Lots	10 feet
Minimum Rear Setback – Individual Lots	10 feet
Minimum Side Yard Setback – Individual Lots	0 feet
Minimum Street Side Setback – Individual Lots	5 feet
Maximum Building Coverage	40%
Minimum Private Outdoor Space	200 square feet/unit
Minimum Common Outdoor Space	200 square feet/unit
Maximum Height	3 stories/45 feet
Maximum Fence/Wall Height	6 feet

234

EXHIBIT " C "

30) The Village Office/Commercial Center (Planning Area 10), the Quasi-Public Use Area (Planning Area 11), the Project Sales Center (Planning Area 12), the Golf Course/Clubhouse/Driving Range (where applicable)(Planning Area 13) and the Public Use Area (Planning Area 14) shall be subject to the standards as set forth in the table below except where such standards conflict with standards set forth elsewhere in the Specific Plan in which case those other Specific Plan Standards shall prevail.

Minimum Lot Size	6,000 square feet
Minimum Lot Width	60 feet
Minimum Lot Depth	100 feet
Minimum Front Setback [1]	0 feet
Minimum Rear Setback [1]	0 feet
Minimum Side Yard Setback [1]	0 feet
Minimum Street Side Setback	0 feet
Maximum Building Coverage	35 %
Maximum Height [2]	2 stories/35 feet
Maximum Fence/Wall Height	6 feet

[1] If lots located in Planning Areas 10 through 14 are located adjacent to a residential lot, the minimum setback shall be 10 feet.

[2] Not including belltowers, steeples and similar architectural embellishments not exceeding 10% of the total building area.

EXHIBIT "C"

235

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:
CITY OF BANNING

AND WHEN RECORDED MAIL TO:
MR. JOHN WILSON C/O
CITY OF BANNING
99 E. RAMSEY ST.
BANNING CA 92220

NO RECORDING FEE IN ACCORDANCE WITH GOV'T. CODE SECTION 6103

233919

RECEIVED FOR RECORD
AT 8:00 O'CLOCK

JUL 20 1995

Recorded in Official Records
of Riverside County, California
Recorder
Fees $

THIS SPACE FOR RECORDER'S USE ONLY

Pre-Annexation And Development
TITLE of DOCUMENT
Agreement

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Additional recording fee applies)

236

11/92

EXHIBIT " D "

PRE-ANNEXATION
AND DEVELOPMENT AGREEMENT
NO. 1995-01

THIS PRE-ANNEXATION AND DEVELOPMENT AGREEMENT is made this 19th day of July, 1995, by the CITY OF BANNING, herein called "City" and by LOMA LINDA UNIVERSITY, herein called "University".

WHEREAS, University is the owner of approximately 110 acres of land within the City, described in Exhibit A, attached hereto and incorporated herein by reference, herein called "Parcel A"; and

WHEREAS, University is the owner of approximately 490 acres of land which is contiguous to Parcel A but is not within the current boundaries of the City, described in Exhibit B, attached hereto and incorporated herein by reference, herein called "Parcel B"; and

WHEREAS, Parcel B is within the City's sphere of influence; and

WHEREAS, Parcel B is, together with other property ("other property), being proposed for annexation to the City; and

WHEREAS, the City Council of the City has passed and adopted, on October 22, 1991, a Resolution of Intention to Annex Parcel B and such other property, a copy of which is attached hereto as Exhibit C, and incorporated herein by reference; and

WHEREAS, the City Council of the City has passed and adopted, on August 10, 1993, Ordinance No. 1127, which prezoned Parcel B into areas of R-A One Acre (which allows a minimum

237

EXHIBIT "D"

residential lot size of 40,000 square feet) of 262± acres and of R-A (which allows a minimum residential lot size of 20,000 square feet) of 231± acres, a copy of which is attached hereto as Exhibit D and incorporated herein by reference;

WHEREAS, Parcel A has a zoning designation of R-A which allows a minimum residential lot size of 20,000 square feet; and

WHEREAS, the City has, on February 23, 1995, received approval from the Riverside County Local Agency Formation Commission ("LAFCO") authorizing the City to annex Parcel B into said City's boundaries, which the City is now prepared to do; and

WHEREAS, the City and the University desire to enter into a Pre-Annexation and Development Agreement in accord with the provisions of State of California Government Code, Sections 65864 through 65869.5, inclusive; and

WHEREAS, the University proposes to develop both Parcel A and Parcel B, herein sometimes together called the "Property", to residential uses in accord with the existing General Plan and the existing zoning and prezoning; and

WHEREAS, the parties hereto desire that this Agreement include general terms and conditions relating to the financing of public facilities necessary for the development of Parcels A and B and for the City to provide municipal services to all such property, and the terms and conditions under which and the manner in which the University may be reimbursed its cost of public facilities, when appropriate.

NOW, THEREFORE, FOR A VALUABLE CONSIDERATION, the parties hereto agree as follows:

EXHIBIT " D "

238

1. INTEREST OF UNIVERSITY.

The University represents that it is the equitable and legal owner of Parcel A and Parcel B.

2. PLAT OF PARCELS A AND B.

Attached hereto as Exhibit E and incorporated herein by reference is a Plat Map identified as "Proposed City of Banning Annexation Area". Said Plat shows the location of Parcel A (so identified) and shows the location of Parcel B, which is identified on said Plat as Parcel Numbers 9, 11, 12, 13, 14, 20, 21, 22, 37, 38, 39, 40, 41, 42, 45, 46, 47, 48, 49, 50, 51, 52, 53 and 55.

3. CURRENT ZONING

Attached hereto as Exhibit F and incorporated herein by reference is a Plat Map identified as "Approved City of Banning Pre-Zoning". Said Plat Map also shows Parcel A. Said Plat shows the 262± acres of the University's property prezoned R.A. One Acre and the 231± acres of the University's property pre-zoned R.A.

4. ANNEXATION AND ZONING MAINTENANCE.

a. Immediately following approval by the parties hereto of this Pre-Annexation and Development Agreement, the City shall complete the annexation of Parcel B in accord with the LAFCO approval at the University's expense.

b. The City shall maintain zoning for the Property permitting those land uses allowed in the RA-1 Acre Zone and R-A Zone District as of the date hereof.

5. DEVELOPMENT.

a. All Parcels or portions thereof which are zoned R-A

EXHIBIT "D"

239

One Acre may be developed as single family residential areas having a minimum lot size of 40,000 square feet. All buildings in these areas shall be one and two story structures having a maximum height of 30 feet.

b. All Parcels or portions thereof which are zoned R-A may be developed as single family residential areas having a minimum lot size of 20,000 square feet. All buildings in these areas shall be one and two story structures having a maximum height of 30 feet.

c. The University shall make an irrevocable offer of dedication of a 1 (one) acre police/fire station site to the City without credit against developer fees or cost to the City. The offer shall be made a condition of the first tentative parcel or subdivision map for the Property. The location of such site shall be as agreed upon by the University and the City.

d. The City may, in connection with approval of development of the Property, impose upon the University reasonable conditions relating to water supply, including but not limited to requiring transfer to the City of water stock appurtenant to the Property, if any, and water resources lying on or under the Property, as well as requiring the University to establish new wells or other water facilities as necessary to serve the Property. Such wells shall be located as reasonably designated by the City.

e. The University shall cooperate with the owner of the neighboring land (Dickinson Parcels) to plan a sewer connection from Sunset Avenue across University Land, the Property, to such neighboring land. University shall provide a public easement for

EXHIBIT " D "

240

sewer pipeline purposes, at a location jointly determined by City and the University which will not unreasonably interfere with the University's use of its property, at no cost to the City, to allow the adjacent property (now owned by Dickinson family) sewer pipeline access to Sunset Avenue.

f. The City shall, upon request of the University, redesignate the Property as a Specific Plan Overlay Development Zone ("SPOD Zone"). The SPOD Zone requires the University, prior to development of the property in accord with a Specific Plan, to prepare and process a "Specific Plan" detailing the permitted uses of the Property. If the University prepares a Specific Plan it shall provide, inter alia, for the following:

1) The University shall pay all fees required by the City in connection with processing of such a Specific Plan, including, if necessary, the cost of any additional environmental studies.

2) The Specific Plan may provide for clustering of residential units so as to allow as much open and/or recreational spaces as reasonably possible.

3) The Specific Plan shall provide no more than 944 residential units on all of Parcels A and B. Such residential buildings shall be one and two story structures having a maximum height of 30 feet. The minimum interior square footage of all such residential units shall not be less than 1,200 nor more than 5,000.

4) The Specific Plan shall reserve a 10 acre elementary school site for dedication to the Banning Unified School District without cost to the District in the event the

EXHIBIT " D "

241

District agrees to accept such school site in full and complete mitigation for the impacts of such Specific Plan development project.

5) The Specific Plan shall include the irrevocable dedication of a 1 acre police/fire station site to the City without credit against developer fees or cost to the City. The location of the site shall be as agreed upon by the City and the University.

6) The specific plan may satisfy its public park requirement by one of the following ways:

a) Acquisition, improvement and dedication to the City of a 7.5 acre expansion of the City's Lions Park in accord with a design as jointly determined by City and the University. Such improvements shall include grass, and other trees and plants, together with an irrigation system for such 7.5 acres and construction of two little league ball diamonds with a soccer field overlay and two outdoor basketball courts. Said acquisition, improvements and dedication shall be deemed complete satisfaction by the parties of the University's public park obligation due in connection with such Specific Plan project; or

b) Improvement and dedication to the City of 7.5 acres within the project area, without cost to City, at a location and in accord with a design as jointly determined by City and the University. Said improvements shall include amenities associated with neighborhood parks, i.e. grass, trees and plants, together with an irrigation system, picnic area, tot lot and rest room. Said improvement and dedication shall be deemed complete satisfaction by the parties of the University's

EXHIBIT "D"

242

public park obligation due in connection with such Specific Plan project; or

c) Transfer to City, without cost to City, of 15 acres of public park land, within the project area, at a location as jointly determined by City and the University. Said transfer shall be deemed complete satisfaction by the parties of the University's public park obligation due in connection with such Specific Plan project.

7) The Specific Plan may include an 18 hole regulation golf course. If such golf course is so provided, it shall, for a minimum of 10 years following its opening for play, be open to players who are required to pay only a daily play fee, i.e., "public play". During such time, if usage of the course becomes crowded and play must be allocated, the public play portion of the usage may be restricted to two days per week, which shall be reserved exclusively for such play, if necessary. Water for irrigation of said golf course may be limited by City to reclaimed or other source of water if such water is available from City facilities. University shall be responsible for all costs of the extension of any reclaimed water line to the golf course.

8) It is the intention of the parties to this Agreement that the use of a Specific Plan for the Property will not allow more than 944 residential units on the Property. It is the further intention of the parties that the University will, subject to its own planning and marketing judgment, attempt to place said number (944) of residential units on the Property.

9) The Specific Plan, subdivision map and any other

EXHIBIT " D "

243

related documents pertaining to the Property shall provide for access to the Property in a manner consistent with the Circulation Element of the General Plan of the City and consistent with any congestion management plan applicable to the project at either the local, regional, state or federal level. The University shall be responsible for its pro rata share of any required circulation improvements and may be required to oversize such improvements, subject to later reimbursement for any costs in excess of its pro rata share, from any subsequently approved subdivisions and developments benefitting thereby.

10) The City may, in connection with approval of development of the Property, impose upon the University reasonable conditions relating to water supply, including but not limited to requiring transfer to the City of water stock appurtenant to the Property, if any, and water resources lying on or under the Property, as well as requiring the University to establish new wells or other water facilities as necessary to serve the Property. Such wells shall be located as reasonably designated by the City.

11) The University shall cooperate with the owner of the neighboring land (Dickinson Parcels) to plan a sewer connection from Sunset Avenue across University Land, the Property, to such neighboring land. University shall provide a public easement for sewer pipeline purposes, at a location jointly determined by City and the University which will not unreasonably interfere with the University's use of its property, at no cost to the City, to allow the adjacent property (now owned by Dickinson family) sewer pipeline access to Sunset Avenue.

EXHIBIT "D"

244

12) The City hereby declares and finds that a Specific Plan for the Property, having a maximum number of 944 residential units thereon, is and will be consistent with the General Plan and zoning designations for the property.

6. ENVIRONMENTAL REVIEW.

Environmental review is required for this Agreement. All terms, covenants and provisions of this Agreement shall be subject to such conditions and mitigation as shall be required as a result of such environmental review. The above-stated requirements supersedes any condition or covenant contained in this Agreement, or any attachment hereto, which is inconsistent with this provision. The City shall process such environmental and land use documents to a final decision, commencing whenever the University's application for any given approval is declared complete and is accepted by the City. All costs for associated environmental studies and review thereof shall be paid by the applicants for the application being reviewed. There is hereby reserved to the University the right to refrain from proceeding with development of the Property, upon a determination by the University, in its sole discretion, that any environmental mitigation or condition makes the project infeasible, or for any other reason.

7. CITY TO PROVIDE MUNICIPAL SERVICES.

Upon payment by University (or construction by it in lieu of payment) of all fees specified in this Agreement, the City shall provide to the University's Property all necessary municipal services as may be required by development of such Property either under the zoning described in Paragraph 4, above,

EXHIBIT " D "

245

or the Specific Plan described in Paragraph 4, above. Said municipal services shall include but not be limited to domestic water service, sanitary sewer service, police and fire protection. University shall be responsible for all costs of extension of service lines, water and sewer mains, etc. to the Property as provided in the existing City rules for extension of service to subdivisions. No right to actual use of any existing capacity shall be deemed to have accrued until the approval of one (1) or more tentative subdivision maps for the Property, and then only as to such approved maps.

8. REIMBURSEMENT AGREEMENT.

In the event the University is required by City to build public facilities to serve its development which by virtue of their location, size and/or capacity are capable of serving properties other than the University's, the prorata cost thereof in excess of the University's project needs shall be repaid to the University pursuant to a reimbursement agreement, the standard form of which is attached hereto as Exhibit G and incorporated herein by reference.

9. LAND USE REGULATIONS.

The rules, regulations and official policies governing the uses of the University's Property and the density of development thereof, as set forth herein, together with the design, improvement and construction standards and specifications applicable to such development are those rules, regulations and official policies of the City which are in force at the time of the execution of this Agreement (the "Existing Land Use Rules"). The Existing Land Use Rules are listed in Exhibit "H" attached

EXHIBIT " D "

246

hereto and incorporated herein by reference.

This Agreement precludes the City in subsequent actions applicable to the University's Property from imposing new or different fees or increasing existing fees (except as set forth in Paragraph 10, below) which the University may be required to pay as a condition to obtaining approval of Specific Plans, tentative tract maps, final tract maps, conditional use permits, variances, building permits, certificates of occupancy, or other approvals related to the development of the University's Property or the construction of its project, collectively referred to herein as "Development Fees", and this Agreement precludes the City from adopting and applying new rules, regulations and policies to the University's project which prevent the development of the University's Property as contemplated by this Agreement. Further, this Agreement does not prevent the City from denying or conditionally approving any subsequent development project application by the University with respect to property not included within Parcel A or Parcel B on the basis of either existing or new rules, regulations and policies.

Pursuant to Section 65865.2 of the Government Code, the City shall not prevent, delay nor otherwise interfere with the development of the University's property for the uses and to the density or intensity of use set forth in this Agreement by any discretionary action, including, but not limited to, the enactment after the date of this Agreement of any ordinance or resolution or other action by the City Council, including, but not limited to, any ordinance adopted through the initiative process, which would be more restrictive than the Existing Land

EXHIBIT "D"

247

Use Rules or which would impose limitations or restrictions on the uses as set forth in this Agreement, or the density or intensity of use thereof, or which would limit or control the rate, timing or sequence of development of the University's property.

10. FEES AND CHARGES.

The University shall pay all Development Fees of the City which are reasonably and uniformly required as a condition to the subdivision and development of property and the fees for the provision of municipal services, including, but not limited to, such fees and charges as may be established, from time to time, by the City Council of the City, in compliance with all applicable requirements of the Constitution and laws of the State of California, for deferring the cost of the planning, design, construction, installation and acquisition of municipal facilities which are necessary for the City to provide municipal services to the property, as are in effect as of the date of this Agreement. The University shall pay all such fees and charges when they are due as prescribed by the applicable provision of the City's Municipal Code or the ordinances or resolutions establishing the fees and charges and in the amounts thereof, as the same may be modified from time to time by subsequent action of the City Council, it being expressly agreed by the City and the University that Development Fees may not be increased during the term of this Agreement, as to the University, in a percentage amount each year in excess of the percentage increase, if any, in the Engineering News-Record-Construction Cost-Cost Index between the date of this Agreement and each such subsequent year (based

248

EXHIBIT "D"

upon the January index thereof).

11. AMENDMENT OR CANCELLATION OF AGREEMENT.

This Agreement may be amended or cancelled in whole or in part only by mutual consent of the parties and in the manner provided for in Government Code Sections 65868, 65867 and 65867.5. An express repudiation, refusal or renunciation of this Agreement which is signed by the University, however, is sufficient to terminate this Agreement and a hearing on the matter shall not be required.

12. NOTICES TO MORTGAGEES UPON REQUEST; RIGHT TO CURE.

If the City receives notice from a Mortgagee requesting a copy of any notice of default given the University hereunder and specifying the address for service thereof, then the City shall deliver to such Mortgagee, concurrently with service thereof on the University, any notice given to the University with respect to any claim by the City that the University is in default under this Agreement. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (90) days after the receipt of such notice from the City to cure or remedy, or to commence to cure or remedy, the such default claimed or the areas of noncompliance set forth in the City's notice. If such default or such noncompliance is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall thereafter remedy or cure such default or noncompliance within ninety (90) days after obtaining possession. If any such default or noncompliance cannot, with diligence, be remedied or cured within

EXHIBIT "D"

249

such ninety (90) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such default or noncompliance if such Mortgagee commences such cure during such ninety (90) day period, and thereafter diligently pursues completion of such cure to the extent possible. Notwithstanding the foregoing, nothing contained in this Development Agreement shall be deemed to permit or authorize any Mortgagee to undertake or continue construction or completion of any improvements comprising the University's project (beyond the extent necessary to conserve or protect improvements or construction already made) without first having expressly assumed the University's obligation hereunder in the manner specified in this Section.

13. OTHER DEVELOPMENT PROPOSALS.

Nothing herein contained shall prevent the City and the University from mutually agreeing to a different plan for development of the property or portions thereof.

14. WILDFIRE PROTECTION COSTS.

The University shall pay upon request by City, the wildfire protection costs incurred by City from the State of California Department of Forestry and Fire Protection regarding the University's Property until such time as City is no longer obligated to pay such costs.

15. PERIOD REVIEW OF COMPLIANCE WITH AGREEMENT.

a. This Agreement shall be subject to annual review, pursuant to California Government Code Section 65865.1. Within thirty (30) days following each anniversary of the effective date hereof, the University shall submit to the Community Development

EXHIBIT " D "

250

Director of the City written documentation demonstrating good-faith compliance with the terms of this Agreement ("Annual Report"), to the extent that the University has taken or is required to take any action pursuant to this Agreement.

b. The Annual Report and supporting documents shall describe (i) any permits or other approvals which have been issued or for which application has been made and (ii) any development or construction activity which has commenced or has been completed since the date hereof or since the last annual review. Said Director shall review all the information contained in such report in determining the University's good faith compliance with this Agreement.

c. The City does not waive any claim of defect in performance by the University if, at the time of an annual review, the City does not propose immediately to modify or terminate this Agreement.

16. VIOLATIONS; DISPUTE RESOLUTION.

a. Violation by University.

1) The University shall be deemed in violation of the terms of this Agreement upon the occurrence of one or more of the following events or conditions:

a) If a material warranty, representation or statement made or furnished by the University to the City as a partial inducement to the City to enter into this Agreement proves to be false or to have been false when it was made in any material respect; or

b) If a finding and determination is made by the City following a periodic review pursuant to Section 16,

EXHIBIT "D"

251

above, upon the basis of substantial evidence, that the University has not complied in good faith with one or more of the terms or conditions of this Agreement.

2) If the City's Community Development Director believes the University to be in violation of this Agreement, pursuant to Section 17.a.1), above, said Director shall give the University thirty (30) days written notice specifying the nature of the alleged violation and, when appropriate, the manner in which the violation may be satisfactorily cured. Failure or delay in giving notice of a violation shall not constitute a waiver of such violation.

3) The University may appeal the said Director's allegation of violation by filing with the City Clerk, within the thirty (30) day cure period, a notice of appeal. The University shall be given an opportunity to be heard at a regularly scheduled meeting of the City Council. If, after such hearing, it is the finding of the City Council that a violation has occurred and is continuing, the University shall be given a maximum of sixty (60) days within which to cure such violation. At the next City Council meeting following expiration of the period allowed for curing the violation, the City Council shall set forth by motion or resolution its determination as to (i) the continuation of the violation and (ii) any action to be taken, which action may include modification or termination of this Agreement. Any action to terminate shall be in the form of a resolution and shall be supported by written findings.

4) After proper notice and expiration of the thirty (30)-day cure period without appeal, cure or commencement of

EXHIBIT "D"

252

substantial effort toward a cure, the City may take unilateral action to terminate or amend this Agreement, in accordance with the applicable provisions of state law.

b. Violation by City.

1) The City shall be deemed in violation of the terms of this Agreement upon failure of the City to carry out any of its obligations pursuant to this Agreement.

2) If the University believes the City to be in violation of this Agreement, pursuant to Paragraph 17.b.1), above, the University shall promptly notify the City, through its Community Development Director, to that effect, setting forth the grounds upon which a violation is claimed, facts in support of such grounds and the means through which such violation may be cured. The said Director shall have thirty (30) days following the date of receipt of the notice within which to take action to deny the claim, cure the violation or undertake substantial action toward the cure.

3) If the action of said Director is unsatisfactory to the University, the University may make an appeal to the Planning commission, provided that, within ten (10) days following the date of receipt of the notice of denial of the claim, or within ten (10) days following the date of expiration of the cure period described in the preceding paragraph, whichever occurs first, the University file a notice of appeal with the Secretary of the Planning Commission. The Planning Commission thereafter shall hold a hearing at its next regularly scheduled meeting, which need not be a public hearing, at which the University may present information regarding the alleged

EXHIBIT "D"

253

violation. Based upon the information presented at this hearing, the Planning Commission shall make a determination as to whether the City is in violation of this Agreement, as alleged by the University.

4) The determination of the Planning Commission shall be final unless, within ten (10) days following the date of receipt of notice of such determination, the University files with the City Clerk a notice of appeal to the City Council. The City Council shall, within thirty (30) days after the date of receipt of such written appeal, hold a hearing at which it shall review the determination of the Planning Commission and receive such additional information as the University and the Community Development Director may submit. The City Council shall thereafter have thirty (30) days within which to make a determination of whether the City is in violation hereof, unless the time is otherwise extended by agreement of the Parties. If the City Council fails to make a determination within such time, the findings of the Planning Commission shall stand.

c. Subject to the prior exhaustion of all administrative remedies set forth above, in addition to any other rights or remedies, either Party may institute legal action to cure, correct or remedy any violation, to enforce any covenants or agreements herein, to enjoin any threatened or attempted violation hereof, to recover damages for any default, or to obtain any other remedies consistent with the purposes of this Agreement. Notwithstanding any other provisions herein to the contrary, (i) neither Party shall have any liability hereunder for contractual damages, (ii) each Party shall only be entitled

EXHIBIT " D "

254

to specific performance by the other Party of its obligations under this Agreement, and (iii) each Party shall otherwise be subject only to liability for violation of a statutory or constitutional right of the other Party which exists independent of this Agreement. Any such legal action shall be brought in the Superior Court of the County of Riverside, State of California.

17. CONFLICT WITH STATE OR FEDERAL LAWS.

In the event that any state or federal laws or regulations, enacted after the effective date of this Agreement, prevent or preclude compliance by either Party with any provisions hereof, such provisions shall be modified or suspended to the extent necessary to comply with such state or federal laws or regulations.

18. RELATIONSHIP OF PARTIES.

It is understood that the contractual relationship between the City and the University hereunder is such that the University is not an agent of the City.

19. DURATION OF AGREEMENT.

This Agreement shall become effective upon the adoption by the City Council of the City of an enabling Ordinance. The duration of this Agreement shall be for a period of twenty-five (25) years from the date the annexation described above is completed, and final, or until completion of construction of the University's project, if that occurs before the expiration of said twenty-five (25) year period.

During the term of this Agreement, the University shall have a legally recognized vested right to obtain the regulatory approvals provided for herein and to carry out development of the

Property in accordance herewith. The timing of any development to be carried out on the Property shall be at the sole discretion of the University.

20. TERMINATION UPON FAILURE OF ANNEXATION.

In the event the annexation of Parcel B to the City has not been completed within eighteen (18) months from the date hereof, this Agreement shall terminate and neither party shall thereafter have any obligations to the other.

21. EMINENT DOMAIN.

City acknowledges that University may be prevented, because of circumstances beyond its control, from acquiring real property or property rights necessary to carry out or implement the terms of this Agreement. In such case, if City can make the findings of public necessity as required by state law, City agrees to use its power of eminent domain to condemn and acquire any such property or property right not held by University necessary to implement and carry out the terms and purposes of this Agreement. University agrees to pay all land acquisitions costs and attorneys' fees associated with such condemnation action.

22. COMPLETE AGREEMENT; SEVERABILITY; INVALIDITY.

a. This Agreement represents the complete understanding between the Parties and supersedes all prior agreements, discussions and negotiations relating to the subject matter hereof. No amendment, modification or cancellation of this Agreement (other than pursuant to Section 12, above) shall be valid unless adopted in accordance with California Government Code Section 65868, and then evidenced in writing and executed by the Parties.

EXHIBIT " D "

256

b. If any provision of this Agreement is finally determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall not be affected thereby and shall remain in full force and effect, unless such invalidation renders any remaining provision impossible or impractical to enforce.

c. Additionally, if this Agreement or any provision hereof is determined to be invalid or unenforceable, then any provision of the Annexation Agreement relating to the same or substantially similar subject matter shall remain in full force and effect.

23. BINDING EFFECT; ASSIGNMENT

a. This Agreement shall bind, and inure to the benefit of, the respective Parties and their successors in interest, including but not limited to their heirs, representatives, assigns, partners and investors.

b. The University shall have an unrestricted and unqualified power to assign and transfer all or portions of its rights and obligations under this Agreement to any other person or entity, at any time during the effective period hereof, provided that such assignment and transfer shall occur in connection with the sale, hypothecation or other transfer of an interest in the Property or a portion thereof. The University shall give the City notice of any such assignment and transfer and the resulting assignee shall provide the City with notice acknowledging its acceptance of its obligations to the City hereunder as a successor in interest to the University. Upon such assignment and transfer, the University shall be relieved of

EXHIBIT " D "

257

its rights and obligations hereunder, to the extent that such have been specifically transferred to and accepted by an assignee. In the absence of such notices to the City, the assignment shall be void, and the University shall continue to be bound by the provisions of this Agreement.

24. ENFORCEMENT.

a. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of California and any applicable laws of the United States of America.

b. Unless amended, modified or cancelled as provided in Sections 12 and 23, above, or pursuant to Government Code Sections 65865.1, 65865.3, 65868 or 65869.5, this Agreement shall be enforceable by either Party, notwithstanding any change in any applicable general or specific plan, zoning, subdivision or other applicable law or regulation.

c. In the event of any action or proceeding brought by either Party against the other to enforce the provisions of this Agreement, the prevailing Party shall be entitled to recover reasonable costs and expenses, including attorneys' fees, incurred in connection therewith.

d. In the event of any action or proceeding brought by a third party, whether a private or governmental person or entity, challenging the validity of this Agreement or any provisions hereof, the Parties shall cooperate in defending against such challenge. The University shall pay all legal expenses associated with such defense. However, the University may determine, in its sole discretion, that such defense shall not be undertaken or continued. Upon making such determination,

EXHIBIT D

258

the University shall, before withdrawing from the action, notify the City of its intent. The City shall thereafter, at its first regular meeting following date of such notice, consider its options with respect to the pursuit of the action. If it is the determination of the City to continue its advocacy in the action, the University shall not, after date of such decision be liable hereunder for payment of any costs incurred by City as a result of the City's decision.

With respect to any ongoing litigation in which the City and the University are mutually engaged, during the entire course of any such challenge, including any review up to a court of final jurisdiction, this Agreement shall remain in full force and effect.

25. WAIVERS AND DELAYS.

a. Failure by either Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or failure by either Party to exercise its rights upon a default by the other Party, shall not constitute a waiver of any right to demand strict performance by such other Party in the future.

b. Nonperformance by either Party shall not be excused because of a failure of a third person, except as provided in Subsection 26.c., below.

c. Neither Party shall be deemed to be in default for failure or delay in performance of any of its obligations under this Agreement if caused by floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes or other labor difficulties, government regulations or other causes beyond

EXHIBIT "D"

259

the control of the Party claiming the force majeure. If any such event shall occur, the term of this Agreement and the time for performance by the University of any of its obligations hereunder shall be extended by the period of time that such events prevent them from proceeding with the development of the Property.

26. NOTICES.

Any notice, request, instruction or other formal communication by one Party to the other shall be in writing and shall be effective only when either (i) personally delivered to the addressee at the appropriate address set forth below (in which event such communication shall be deemed effective upon actual delivery), or (ii) sent by registered or certified United States Postage Service mail, prepaid and return receipt requested (in which event such notice shall be deemed effective on the second day following deposit of such communication in the mail), addressed as follows:

If to City:

City of Banning
Attention: City Manager
99 East Ramsey Street
Banning, CA 92220
Tel. (909) 922-0300

If to University:

Loma Linda University
Loma Linda, CA 92350

Attn: President

Either Party may change the address set forth above by giving written notice of such change, in the manner prescribed in this Section.

27. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and which shall be deemed a

EXHIBIT "D"

260

single Agreement.

28. RECORDATION OF AGREEMENT.

Within ten (10) days following the effective date of this Agreement, the City Clerk shall record a fully executed copy hereof with the County Recorder of the County of Riverside.

IN WITNESS WHEREOF, the Parties have executed this Agreement, to be effective as of the date set forth in the first paragraph hereof.

"University"

LOMA LINDA UNIVERSITY

By: Donald H. Pursley
Title: VICE PRESIDENT

By: Robert W. Frost
Title: Asst. Secretary

"CITY"

CITY OF BANNING

By
Don E. Smith, Mayor

APPROVED AS TO LEGAL FORM AND CONTENT:

John F. Wilson
City Attorney

ATTEST:

Marie A. Calderon
City Clerk

DEY/bls#31
BANNING.AG2

EXHIBIT "D"

261

INDEX

EXHIBITS TO AGREEMENT

A - Description of Parcel A

B - Description of Parcel B

C - Resolution of Intention to Annex

D - Ordinance No. 1127 (Pre-zoning)

E - Plat Map - Parcels

F - Plat Map - Prezoning

G - Reimbursement Agreement

H - Existing Land Use Rules

EXHIBIT "D"

262

EXHIBIT A

DESCRIPTION OF PARCEL A

Assessor's Parcel No. 535-070-36

EXHIBIT "D"

263

EXHIBIT B

DESCRIPTION OF PARCEL B

Plat Parcel Number (See Exhibit D)	Assessor's Parcel Number
9	531-060-008
11	531-060-014
12	531-060-015
13	531-060-016
14	531-060-017
20	531-060-032
21	531-060-033
22	531-060-034
37	531-070-002
38	531-070-004
39	531-070-006
40	531-070-007
41	531-070-008
42	531-070-009
45	531-070-012
46	531-070-013
47	531-070-014
48	531-070-015
49	531-070-016
50	531-070-017
51	531-070-018
52	531-070-019
53	535-060-002
55	535-060-005

EXHIBIT "D"

264

233919

EXHIBIT C

RESOLUTION OF INTENTION

EXHIBIT "D"

265

233919

RESOLUTION 1991-20

A RESOLUTION OF THE CITY COUNCIL OF BANNING, CALIFORNIA, CONSENTING TO INITIATE PROCEEDINGS TO ANNEX CERTAIN UNINHABITED REAL PROPERTY TO THE CITY OF BANNING (CITY ANNEXATION #19)

WHEREAS, the City Council has at its regularly scheduled meeting on February 12, 1991, examined the proposed annexation of approximately 979± acres of unincorporated land within the City's Sphere of Influence to the City of Banning; and

WHEREAS, the City of Banning desires to initiate proceedings pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, commencing with Section 56000 of the California Government Code, for the annexation; and

WHEREAS, the territory proposed to be annexed is uninhabited, and a graphic of the boundaries of the territory is set is set forth in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, the City Council has determined that the site proposed for annexation is adjacent to and strongly tied to the City of Banning; and

WHEREAS, the proposed annexation would result in the orderly extension of the boundaries of the City of Banning; and

WHEREAS, the owners of said uninhabited real property have expressed their desire to annex to the City of Banning; and

NOW, THEREFORE, be it resolved that the City Council hereby consents to the commencement of proceedings to annex this uninhabited property, described in attached Exhibit "A", located in the County of Riverside, California.

EXHIBIT "D"

266

233919

PASSED AND ADOPTED this 12th day of February, 1991.

Robert Hanson, Mayor

ATTEST:

Lucille M. Elizondo
City Clerk of City of Banning

CERTIFICATION

I, LUCILLE M. ELIZONDO, City Clerk of the City of Banning, do hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 12th day of February, 1991, by the following vote, to wit:

AYES: Councilmembers Garcia, Holbert, Reynolds, Williams, Mayor Hanson

NAYS: None

ABSENT: None

ABSTAIN: None

Lucille M. Elizondo, City Clerk
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

JOHN WILSON, CITY ATTORNEY
City of Banning

:04/rc2

EXHIBIT "D"

267

233919

EXHIBIT D

ORDINANCE NO. 1127

PREZONING

EXHIBIT " D "

268

ORDINANCE NO. 1127

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE ASSIGNATION OF PRE-ZONING DESIGNATIONS OF RA, RA-ONE-ACRE, AND RA-TWO-ACRE, ON CERTAIN PROPERTIES INCLUDED IN ANNEXATION #19 AS DESCRIBED IN EXHIBIT "A" ATTACHED HERETO.

WHEREAS, the City Council at its meeting on February 12, 1991, passed and adopted Resolution No. 1991-20, "A Resolution of the City Council of Banning, California, consenting to initiate proceedings to annex certain uninhabited real property to the City of Banning (City Annexation #19)"; and,

WHEREAS, the Local Agency Formation Commission (LAFCO) requires that the proposed territory be pre-zoned by the municipality initiating annexation; and,

WHEREAS, at the direction of the City Council of the City of Banning, the staff of the Planning Department has studied, considered, and developed proposals regarding the pre-zoning of said properties for annexation; and,

WHEREAS, after reviewing existing land use, general plan designations and zoning, and determining the RA, RA-One-Acre, and RA-Two-Acre zone districts are in consonance with same;

NOW, THEREFORE, the City Council of the City of Banning ordains that the pre-zoning of approximately 987 acres to the City's RA, RA-one acre, RA-two acre districts on the property, located in the County of Riverside, California shall be as set forth in the attached graphic designated Exhibit"A".

Section 1:

The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon this ordinance shall take effect 30 days after adoption and be in force and effect according to law.

PASSED, APPROVED, AND ADOPTED this 10th day of August 1993, at Banning, California.

Gary Reynolds, Mayor
City of Banning, California

EXHIBIT " D "

269

233919

APPROVED AS TO FORM
AND LEGAL CONTENT:

John F. Wilson
City Attorney

ATTEST:

Lucille M. Elizondo
City Clerk

CERTIFICATION:

I, Lucille M. Elizondo, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance was duly introduced at a result meeting of the City Council of the City of Banning, held on the 27th day of July, 1993, and was duly adopted at a regular meeting of said City Council on the 10th day of August, 1993, by the following vote, to wit:

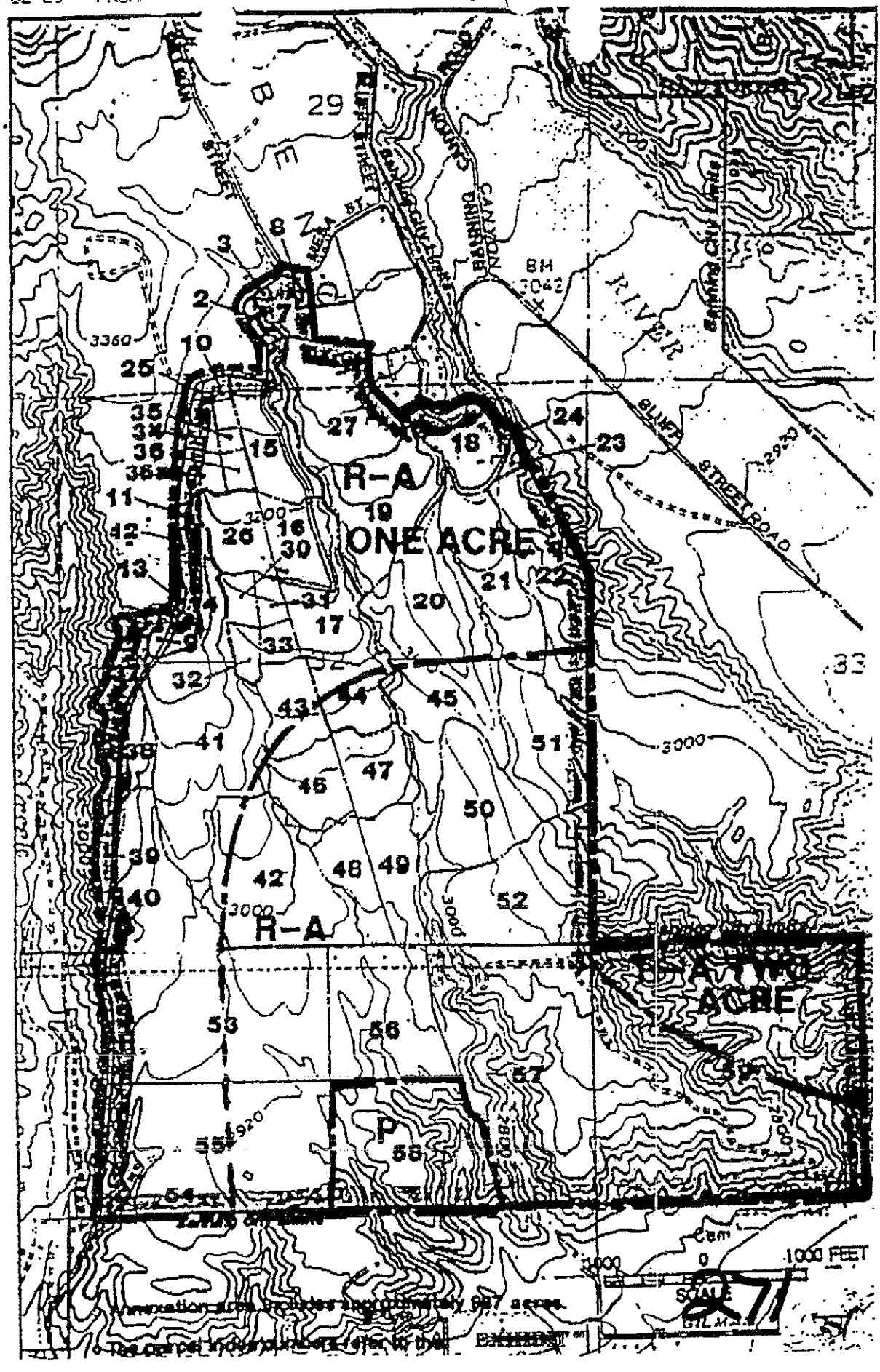
AYES: Councilmembers Garcia, Lewis, Smith, Williams, Mayor Reynolds
NOES: None
ABSENT: None
ABSTAIN: None

Lucille Elizondo, City Clerk
City of Banning, California

EXHIBIT "D"

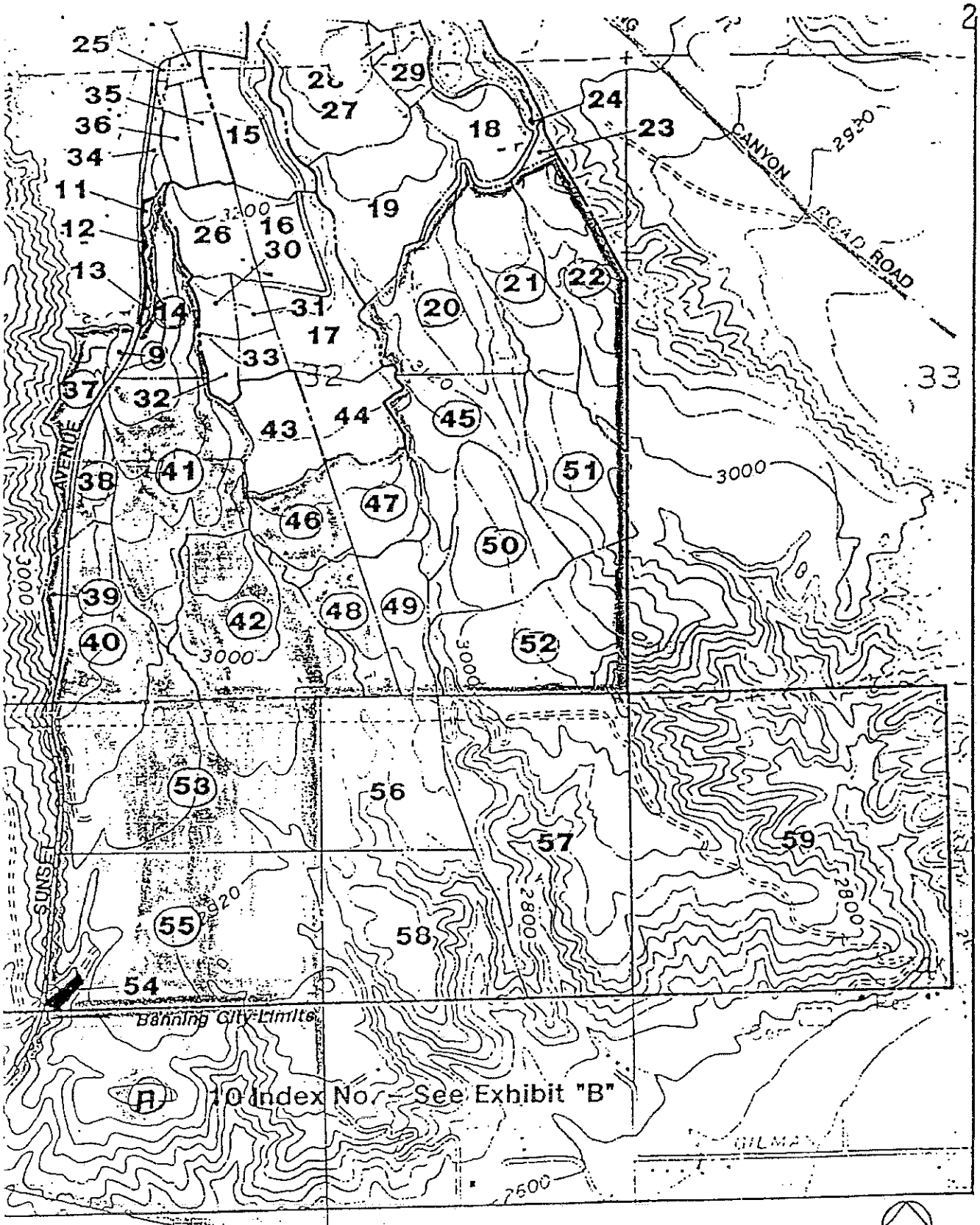
270

233919



EX "A"

233919



ENGINEERING ASSOCIATES

Proposed City of Banning Annexation Area

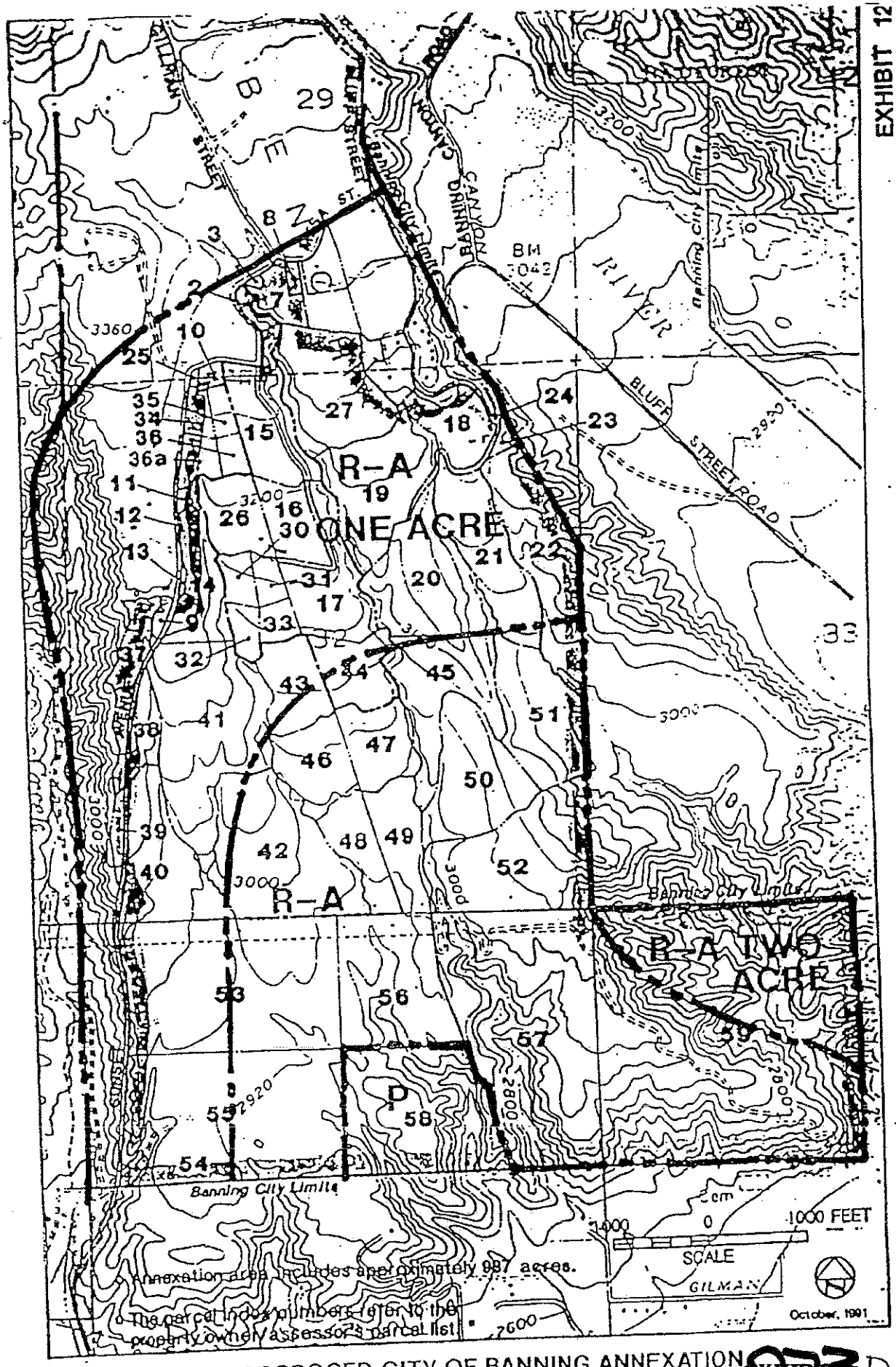
Exhibit "E"

No Scale

January 11, 1991

272

EXHIBIT "D"



PROPOSED CITY OF BANNING ANNEXATION
APPROVED CITY OF BANNING PRE-ZONING

EXHIBIT 273

27

EXHIBIT G

REIMBURSEMENT AGREEMENT

EXHIBIT "D"

274

REIMBURSEMENT AGREEMENT

FOR CONSTRUCTION OF PUBLIC FACILITIES

THIS REIMBURSEMENT AGREEMENT FOR CONSTRUCTION OF PUBLIC FACILITIES, herein called "Agreement", is made this ____ day of _____, 199__ by the City of Banning, herein called "City" and by _____, herein called "Developer".

WHEREAS, Developer is engaged in the development of certain real property located in the City, known as _____ _____, herein called the "Project"; and

WHEREAS, the development of the Project requires the construction of certain public facilities for _____ _____ _____;

and

WHEREAS, City has requested that said public facilities be constructed at a location, size and/or at a capacity that exceeds the requirements for the Developer's project; and

WHEREAS, the City and the Developer desire to provide reimbursement to the Developer for its costs caused by compliance with the City's request, all in accord with the terms and conditions of this Agreement.

NOW, THEREFORE, FOR A VALUABLE CONSIDERATION, the parties hereto agree as follows:

1. CONSTRUCTION OF PUBLIC FACILITIES.

The Developer shall, at its sole cost, construct those certain public facilities, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

EXHIBIT "D"

275

2. DEDICATION TO CITY.

Upon completion of such construction and acceptance thereof by City, Developer shall dedicate said public facilities to City at no cost to City.

3. ACCOUNTING OF CONSTRUCTION COSTS.

During the construction by Developer of said public facilities, Developer shall keep and maintain generally acceptable accounting records regarding its costs in construction of said public facilities. Said costs shall include, but not be limited to, all labor and material costs, all contractors and subcontractors costs, all equipment use and/or rental costs, all fees and other costs paid to public entities and public utilities, all design and engineering costs, all legal consulting costs, all financing and interest costs for the funds expended for such construction during the period of such construction up to the date said public facilities are actually transferred to the City, and a sum equal to 30% of said total costs for overall supervision and overhead costs of Developer. Upon transfer of said public facilities to City, Developer shall submit, in writing, by signed affidavit, a final accounting of all such costs.

4. USE BY OTHERS.

City agrees that it shall not allow any persons or entities, except Developer and its designees, to connect to and/or use said public facilities without compliance with the reimbursement provisions of this Agreement. The term "any persons or entities", shall include the City and all other public agencies.

The City further agrees that it shall not allow any persons or entities to construct and use any public facilities in

EXHIBIT "D"

276

lieu of using the public facilities which are the subject of this Agreement if the public facilities which are the subject of this Agreement can reasonably be used by such other persons or entities in connection with the development, improvement and/or use of their real property.

5. DETERMINATION OF COSTS TO OTHERS.

At such time as such other persons or entities are authorized to connect to and/or use said public facilities, City shall determine, after consultation with Developer and review of the costs described in Section 3., above, the amount of such cost which shall be paid by such other persons or entities.

Such payment shall be set at the same percentage of the total costs as is equal to the percentage of usage needed by such persons or entities in said public facilities, plus a sum equal to 10% thereof (compounded annually) from the date such public facilities were transferred to the City and the date the City authorizes connection and/or use of said public facilities by said persons or entities.

The authorization to connect and/or use said public facilities by City shall be deemed to occur when the City gives final approval to a subdivision or parcel map or lot line adjustment, or at such other time as connection and/or use is granted by City, whichever event occurs first.

The total amount to be paid by such persons or entities shall not, however, exceed the amount (to be determined by an engineer licensed in the discipline to be evaluated and approved by the City) which it would then cost to construct public facilities to provide the same service to them as though the public facilities

which are the subject of this Agreement had not been built. The costs of obtaining any such determination shall be borne solely by the persons or entities seeking to use said public facilities.

6. COLLECTION OF COSTS AND PAYMENT TO DEVELOPER.

The City agrees to collect the amounts specified in Section 5., above, at the time required and, within ten (10) days thereafter, pay such amounts, in full, to Developer.

7. TERM OF REIMBURSEMENT OBLIGATION. City's obligation to collect funds and to pay Developer under this Agreement shall continue for a period of twenty-five (25) years from the date of this Agreement, unless the obligation is sooner satisfied by payment in full of all sums due and owing to Developer under this Agreement. After such twenty-five (25) year period, the reimbursement process shall cease and any amount of Developer's costs then unpaid shall be waived and the City shall thereafter have no further obligation whatsoever under this Agreement.

8. ASSIGNMENT.

Developer shall have the right to assign all or portions of its rights, duties and obligations under this Agreement. Notice of any such assignment shall be given to City within thirty (30) days of such event.

9. ATTORNEYS' FEES.

In the event any action is commenced to enforce or interpret any term or condition of this Agreement, in addition to costs and any other relief, the prevailing party shall be entitled to reasonable attorneys' fees.

10. NOTICE.

Any notices required or desired to be sent pursuant to

this Agreement shall be addressed as follows:

City	Developer
City of Banning Attention: City Manager 99 East Ramsey Street Banning, CA 92220 Tel. (909) 922-0300	_____ _____ _____

Either party may change its address by written notice to the other party.

11. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties hereto with respect to the matters contained herein.

CITY OF BANNING

By_____
Mayor

ATTEST:

_____
City Clerk

DEVELOPER

By_____

By_____

DEY/bb#31
BANNING.REM

EXHIBIT "D"

279

EXHIBIT "A"

DESCRIPTION OF PUBLIC

FACILITIES TO BE CONSTRUCTED

EXHIBIT "D"

280

EXHIBIT H

LIST OF EXISTING

LAND USE RULES

ON FILE WITH THE BANNING

CITY CLERK

EXHIBIT "D"

281

233819

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT No. 5907

State of California

County of San Bernardino

On July 18, 1995 (DATE) before me, Betty L. Shepherd (NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC")

personally appeared Robert W. Frost (NAME(S) OF SIGNER(S))

☒ personally known to me - **OR** - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Betty L. Shepherd
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

_____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

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EXHIBIT "D"

282

233919

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT No. 5907

State of California

County of San Bernardino

On July 18, 1995 (DATE) before me, Betty L. Shepherd, (NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC")

personally appeared Donald G. Pursley, (NAME(S) OF SIGNER(S))

☒ personally known to me - **OR** - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Betty L. Shepherd
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

_____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

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SIGNER(S) OTHER THAN NAMED ABOVE

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EXHIBIT D

283

RECORDING REQUESTED BY:
The City of Banning, California

AND WHEN RECORDED MAIL TO:
City of Banning
P.O. Box 998
99 East Ramsey Street
Banning, CA 92220
Attention: City Clerk

SPACE ABOVE FOR RECORDER'S USE ONLY

This document is recorded at the request and for the benefit of the City of Banning and is exempt from recording fee pursuant to Government Code Section 27383.

AMENDMENT NO. 1
TO
PREANNEXATION AND DEVELOPMENT AGREEMENT

NOTE: This document amends that certain *Preannexation and Development Agreement* recorded in the office of the Assessor-County Clerk-Recorder of Riverside County, as document number _____ on _____, 1995.

EXHIBIT " E "

284

AMENDMENT NO. 1 TO PRE-ANNEXATION AND DEVELOPMENT AGREEMENT

This AMENDMENT NO. 1 TO PRE-ANNEXATION AND DEVELOPMENT AGREEMENT ("Amendment") dated this ____ day of _____, 2005 ("Amendment Date"), is made and entered into by and between the CITY OF BANNING, a municipal corporation and California general law city (the "City"), and LOMA LINDA UNIVERSITY, a California non-profit corporation (the "University"); the City and the University are sometimes hereinafter collectively referred to as the "Parties."

WHEREAS, the University is the owner of certain real property located in the City and described in the attached Exhibit A (the "Property"); and

WHEREAS, in accordance with the provisions of the Development Agreement Act (California Government Code Section 65864 *et seq.*), on July 19, 1995, the Parties entered into that certain *Pre-Annexation and Development Agreement* (the "Agreement") pertaining to the Property; and

WHEREAS, the Parties now wish to make appropriate amendments to the Agreement.

NOW, THEREFORE, for a valuable consideration, the Parties agree as follows:

1. COMPLIANCE WITH CEQA AND SATISFACTION OF JUDGMENT. In accordance with the requirements of the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*: "CEQA"), the City has caused to be prepared an Environmental Impact Report ("EIR") as contemplated by the Agreement. The City has duly reviewed, approved, and certified the EIR, and the Parties agree that the EIR and the Mitigation Monitoring Plan prepared in conjunction therewith satisfy the requirements of Section 5 of the Agreement. The City shall submit the return on the writ in the action styled *Banning Bench Community of Interest Association v. City of Banning, et al.* [Riverside County Superior Court Case No. 269906] in the form stipulated to by counsel to the parties to that action.

2. TIMING OF PROPERTY DEVELOPMENT. The Parties agree that there is no requirement for the University to initiate or complete development on the Property within any particular period of time, and the City shall not impose such a requirement on the University. The Parties acknowledge that the University cannot at this time decide when or the rate at which or the order in which the Property will be developed. Such decisions depend upon numerous factors which are not within the control of the University, such as market orientation and demand, interest rates, competition, governmental regulations, and

EXHIBIT E 285

other similar factors. Therefore, the Parties agree that the University shall be able to develop the Property in accordance with its own time schedule (as such schedule may exist from time to time), and the University shall determine which part of the Property to develop first, and at its chosen schedule; provided, however, that such time schedule does not conflict with the EIR and the land use entitlements approved by the City in connection therewith. In particular (and not in limitation of the foregoing), since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, (1984) 37 Cal.3d 465, that the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the desire of the Parties to avoid that result by acknowledging that the University shall have the right to develop the Property in such order and at such rate and at such times as the University deems appropriate within the exercise of its judgment.

3. IN-LIEU FEE. In addition to the terms of the Agreement, the Parties also recognize that it is in their long-term mutual best interests for the City to have adequate funding to operate effectively and provide services to the community. Therefore, the University shall pay to the City an in-lieu fee in an amount not to exceed Three Million Six Hundred Fifty Thousand Dollars ($3,650,000.00: the "In-Lieu Fee"). The University shall pay the In-Lieu Fee to the City in installments of Seven Thousand Dollars ($7,000.00: the "Per Unit Amount") for each residential unit developed on the Property, regardless of whether it is an attached, detached, rental/lease, or "for-sale" housing unit and shall continue to pay the Per Unit Amount until such time as the In-Lieu Fee is paid in full.

4. IN-LIEU FEE CREDIT. To the extent that, notwithstanding the Agreement precluding the City from imposing new development fees on the Property during the term thereof, the University is lawfully required to pay, and does pay, to the City or any other public agency, any new, different, or increased development fee(s) imposed by the City on the Property other than those development fees in the amounts and types in effect as of the effective date of the Agreement (*i.e.*, July 19, 1995), the payment of any such new, different, or increased development fee(s) shall be credited against the In-Lieu Fee due under Section 3 of this Amendment. In the event that, following the University's payment of all or any portion of the In-Lieu Fee due under Section 3 of this Amendment, the University is required to pay any such new, different, or increased development fee(s), then the City shall immediately reimburse the University for the same amount previously paid hereunder. Notwithstanding anything to the contrary, the credit provided to the University in this Section 4 shall terminate concurrent with the Agreement's termination.

5. ANNUAL REVIEW. The provisions of Section 16 of the Agreement, dealing with annual review, are hereby deemed waived by the Parties during the period starting on July 19, 1995, and ending on the Amendment Date.

EXHIBIT " E "

286

6. DEVELOPMENT AGREEMENT ACT FINDING. In accordance with Government Code Section 65868, and subdivision (c) of Government Code Section 65867.5, the tentative map prepared for the Property in connection with the Agreement will comply with the provisions of Government Code Section 66473.7.

7. AFFIRMATION OF AGREEMENT. Except as expressly modified by this Amendment, the Agreement remains unmodified and in full force and effect and binding upon the Parties. To the extent of any inconsistencies between the terms and provisions of this Amendment and the terms and provisions of the Agreement, the terms and provisions of this Amendment shall control.

8. INUREMENT. This Amendment shall inure to the benefit of, and shall be binding upon, the Parties and their respective successors and assigns.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment to the Agreement, to be effective as of the Amendment Date.

"CITY": CITY OF BANNING, a municipal corporation and California general law city

By: _____
John Machisic, Mayor

ATTEST:

_____
Marie Calderon, City Clerk

APPROVED AS TO FORM:
BURKE, WILLIAMS & SORENSON, LLP

_____
Julie Hayward Biggs, City Attorney

[signatures continued on next page]

EXHIBIT "E" 287

[signatures continued from preceding page]

"UNIVERSITY":

LOMA LINDA UNIVERSITY, a California non-profit corporation

By: _____
_____, President [CEO]

By: _____
_____, Secretary/Treasurer

EXHIBIT " E "

288

EXHIBIT A

DESCRIPTION OF THE PROPERTY

*[** TO BE INSERTED **]*

EXHIBIT "E"

289